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File No. 037146-0001

October 5, 2004

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92

Dear Ms. Dortch:

In accordance with Section 1.1206 of the Commission's rules, 47 U.S.C. §1.1206, the Intercarrier Compensation Forum ("ICF") submits the attached comprehensive Intercarrier Compensation and Universal Service Reform Plan, its Brief in support the Plan, and associated attachments described below, for filing in the above-captioned docket relating to the Commission's efforts to adopt a unified intercarrier compensation regime.

The members of the ICF are AT&T Corp., Global Crossing North America Inc., General Communications, Inc., Iowa Telecom., Level 3 Communications, LLC, MCI, Inc., SBC Communications Inc., Sprint Corporation and Valor Telecommunications.

On August 13, 2004, the ICF filed with the Commission an *ex parte* presentation which contained an Executive Summary, a detailed slide presentation and additional documents relating to the ICF's effort – over 15 months long – to develop a comprehensive consensus proposal for reform of intercarrier compensation and universal service. In that filing, we demonstrated how the ICF's Plan will advance consumer interests, facilitate efficient competition, promote the development of new technologies and enhance universal service.

This *ex parte* filing provides the Commission with the next step in the continuing evolution of the ICF proposal. Specifically, attached are:

1. An *Ex Parte* Brief setting forth in detail both the policy and legal bases for the ICF Plan.

2. The full ICF Plan. As noted above, this Plan is the product of more than 15 months of negotiations and deliberations and, in contrast to other proposals, is a complete, interdependent and operational proposal.

3. A revised and expanded Executive Summary of the Plan.

4. A set of Network Diagrams illustrating typical interconnection arrangements in today's environment, showing that the present system is "broken" and harms consumers and the economy. This is the same set of diagrams as submitted on August 13, and is included here for reference and completeness.

5. A set of Network Diagrams illustrating interconnection arrangements under the ICF Plan. These are the August 13 diagrams plus two new slides illustrating "ICF Plan Terminology."

If you have any question concerning this *ex parte* notice, please do not hesitate to contact us. We continue to urge the Commission to take prompt action in this Docket so that the Plan can be implemented by July 1, 2005.

Very truly yours,

Gary M. Epstein
Richard R. Cameron
Counsel for the Intercarrier Compensation Forum

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
Developing a Unified Intercarrier	)	CC Docket No. 01-92
Compensation Regime	)	
	)	

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October 5, 2004

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INTRODUCTION

These comments are submitted by the Intercarrier Compensation Forum ("ICF") in support of the Intercarrier Compensation and Universal Service Reform Plan ("ICF Plan" or "Plan") in the above-captioned proceeding. The Plan promises enormous public interest benefits and presents the best means of resolving the interrelated intercarrier compensation and universal service funding issues pending before the Commission.

On August 13, 2004, the ICF submitted an ex parte filing with the Commission in this docket. That filing contained an Executive Summary of the ICF Plan, an extensive slide presentation providing an overview of the Plan, and two sets of Network Diagrams comparing the present broken intercarrier compensation system to the result that would occur under the Plan. In this filing we submit the actual ICF Plan, which is the product of tens of thousands of hours of work over more than 15 months by a broad cross-section of the industry (Appendix A), the policy and legal support for the Plan, a Plan Summary highlighting the Plan's major components (Appendix B) and other supporting material.

As we show here, the Plan is superior to other reform proposals in several important respects. First, it relies upon easily administered and competitively neutral rules that minimize the need for regulatory intervention. Second, it creates a uniform, predictable and efficient intercarrier compensation regime that is legally sound and will provide timely relief from the inefficiencies of today's radically divergent intercarrier compensation schemes. Third, it creates stable and explicit universal service support in place of unsustainable reliance on implicit support mechanisms. Finally, in contrast to other reform proposals, the Plan is sensitive to the unique needs of low-income consumers and rural customers and carriers—and also provides reasonable interim steps to ensure that no industry group is disproportionately burdened—without

sacrificing the efficiency, sustainability, or administrability that are the keys to successful reform.

While the Plan offers significant public benefits, among its most far-reaching advantages will be the promotion of broadband investment and deployment. Today's arbitrary and increasingly unpredictable intercarrier compensation distinctions retard broadband growth and threaten to undermine the Commission's broadband policies. Uncertainty and the serious risk of an adverse regulatory classification deter investment in new services and networks. The enormous transaction costs expended to comply with, enforce, and avoid the effect of today's legacy rules also take their toll, diverting funds better spent on the development and deployment of new infrastructure and services. By establishing predictable and efficient rules that apply uniformly without regard to technology or regulatory classification, the Plan eliminates each of these impediments to efficient broadband deployment. It dramatically reduces regulatory and administrative costs and provides the uniformity and certainty needed to foster investment. And the Plan removes disincentives to rural broadband deployment by moving to rational and explicit universal service support and eliminating reliance on high intrastate access rates.

SUMMARY

There is no longer any serious dispute that the current system of intercarrier compensation is hopelessly outmoded and that consumers are the victims. The telecommunications industry today is characterized by a patchwork of disparate intercarrier compensation schemes that were adopted piecemeal over the decades to address discrete regulatory problems. As a result, legacy regulatory classifications ("local," "toll," EAS, CMRS, "enhanced," interstate, intrastate, interLATA, intraLATA, intraMTA, etc.) prescribe radically divergent compensation rules for indistinguishable telecommunications functions. By treating

like functions differently, these disparate schemes create artificial and uneconomic distinctions among carriers and types of traffic. These legacy distinctions are no longer sustainable or meaningful in an age of competition, rapid technological evolution, and industry-wide convergence on IP-enabled platforms. They distort investment, create regulatory uncertainty, and impose enormous transaction costs—all of which translate into higher consumer rates.

The hodge-podge of intercarrier compensation regimes in effect today thwarts the public interest in a related respect as well: it threatens continued universal service support for high cost and rural customers. Despite the contrary mandate of the Telecommunications Act of 1996, universal service (in the form of low residential rates) is still funded, in part, by implicit support contained in both retail and intercarrier rates. Technological and marketplace developments—such as wireless "one rate" plans and, more recently, VoIP—inevitably erode such implicit support by shifting long distance minutes away from the traditional wireline long distance services that generate access charges. The shift has been dramatic: over the last four years, the interstate access minutes of the largest ILECs, for example, have fallen by more than 25 percent.

Even the federal Universal Service Fund, although explicit, relies on an unstable funding base. Carriers' contribution obligations rest on regulatory distinctions—between, for example, "interstate" and "intrastate" services and between "telecommunications services" and "information services"—that have become increasingly blurred with the emergence of new Internet applications and the proliferation of various service "bundles." And the rules allow some providers to make reduced contributions or none at all. More and more providers are thus able to serve customers without contributing to federal universal service support. This leaves the carriers that do contribute with an escalating share of the burden—a burden that gets passed

along to their dwindling customer base in the form of ever-higher rates. The predictable result is a regulatory death spiral for the existing universal service regime.

Without serious reform now, that death spiral could lead to dramatic long-term rate hikes for customers in rural and other high cost areas. Because reform requires hard choices, however, policymakers have long clung to legacy intercarrier compensation and universal service funding schemes in the hope that competition and technology would advance slowly enough to defer the day of reckoning. As the Commission itself has recognized, however, muddling through is no longer an option.[1/] It is time for policymakers on all levels to face up to the need for a comprehensive overhaul of the intricately interrelated rules governing intercarrier compensation and universal service.

Comprehensive reform can succeed in mending today's fractured system only if it achieves each of the following critical objectives:

[1/] *See, e.g.*, Report and Order and Second Further Notice of Proposed Rulemaking, *Federal-State Joint Board on Universal Service*, 17 FCC Rcd 24952, 24955 ¶ 3 (2002) ("*Interim Universal Service Order*"); *see also id.* at 25045-46 (separate statement of Commissioner Kathleen Q. Abernathy) ("any methodology that assesses contributions based solely on revenues from end-user interstate telecommunications services is fundamentally incompatible with the direction of the communications industry," and reliance on such a system will result in "a continued decline in the reported base of interstate telecommunications service revenues—and a corresponding increase in the contribution factor"); Federal Communications Commission Commissioner Michael J. Copps, Remarks at the Quello Center Symposium, Washington, D.C. (Feb. 25, 2004), *available at* http://hraunfoss.fcc.gov/edocs_ public/attachmatch/DOC-244356A1.pdf ("Our intercarrier compensation system is Byzantine and broken. We have in place today a system under which the amounts and direction of payments vary depending on whether carriers route traffic to an incumbent local provider, a competitive local provider, a long-distance provider, an Internet provider, a CMRS carrier or a paging provider. In an era of convergence of markets and technologies, this patchwork of rates should have been consigned by now to the realm of historical curiosity.").

- Eliminating today's multiple *rate structures* for intercarrier compensation—including the access charge and reciprocal compensation regimes—and replacing them with a single unified rate structure governing all traffic exchanged between carriers.

- Replacing today's myriad of different intercarrier compensation *rates*—including interstate access, intrastate access, voice reciprocal compensation, intercarrier compensation for ISP-bound traffic, and interILEC settlements—with uniform rates for all traffic.

- Replacing today's disparate rules for allocation of financial responsibility among interconnected carriers with a single set of rules expressly delineating each carrier's *financial* responsibility with respect to traffic exchange, while preserving existing flexibility with respect to physical points of interconnection.

- Effecting these reforms while still protecting *universal service* generally and, in particular, rural America's access to affordable telecommunications and information services that are reasonably comparable to those available in urban areas.

An intercarrier compensation reform plan that fails to achieve each of these goals will exacerbate—rather than solve—the problems facing the industry. Because the underlying problems are inextricably linked, relief on only one front could simply produce new distortions. The only possible solution is a comprehensive one.

To that end, the ICF—composed of long distance carriers, incumbent LECs, rural carriers, competitive local exchange companies, next-generation network providers, and wireless carriers—has designed the detailed roadmap set forth in Appendix A to meet each of the four key goals outlined above and to move intercarrier compensation regulation and universal service from upheaval to stability. The ICF Plan is a balanced approach that does not favor any particular industry segment. The ICF met for a year and a half to develop the Plan. Over the

course of the discussions, some members dropped out while others joined or rejoined;[2/] the final Plan represents the input of all the participants along the way. And because it was forged by disparate companies from all corners of the industry, the Plan embodies a pragmatic and commercially reasonable solution to problems that have long vexed policymakers while, at the same time, advancing the public interest most of all.

The overarching goal of the ICF is to redirect the industry's energies from pitched regulatory battles—about interconnection details, amounts of compensation due, and the appropriate characterization of particular services—to true competition on the merits as well as stable universal service mechanisms designed to prosper, not wilt, in the face of that competition. The Plan meets that goal in several ways. *First*, it establishes clear financial and technical rights and obligations with respect to the interconnection of carrier networks. *Second*, it reforms today's fractured intercarrier compensation rules by restructuring many rates immediately, reducing and unifying terminating compensation, and moving, by 2008, to a uniform intercarrier compensation system that eliminates originating charges and, except in rural areas, intra-network terminating transport charges. By 2011, the Plan will complete the transition to a comprehensive bill-and-keep system, under which rational end user charges and explicit universal service mechanisms will replace the inefficient intercarrier compensation mechanisms that consumers ultimately absorb today in the form of higher rates. To protect rural America, however, the Plan ensures that rural carriers will have the option of maintaining a distinct revenue stream when

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[2/] Current ICF members include AT&T Corp., General Communication, Inc., Global Crossing North America Inc., Iowa Telecom, Level 3 Communications, LLC, MCI, Inc., SBC Telecommunications Inc., Sprint Corporation, and Valor Telecommunications, Inc.

they provide terminating transport services. This transition generally will require each carrier to rely on its own subscribers (and supplemental universal service funding as necessary), rather than on the subscribers of other carriers, for the payment of its network costs. By making each carrier responsible to its own end users in this manner, the Plan will permit market forces, rather than regulation, to govern the future of this industry as competition develops. *Third*, the Plan eliminates the implicit universal service support contained in some intercarrier compensation charges today and instead creates new explicit support mechanisms. The Plan will also broaden and stabilize the funding base for universal service support.

These measures—a careful compilation of checks and balances—are designed to work together as a unified and inseverable whole. As noted above, reform must be comprehensive and unified. Reform of intercarrier compensation without reform of universal service support, for example, would harm consumers by accelerating the erosion of universal service funding. Likewise, reform of only some aspects of intercarrier compensation without the unified approach defined here would leave in place the same types of arbitrary distinctions that plague the current system.

Finally, as discussed in Part III below, the Plan as a whole, as well as each of its component parts, is consistent with existing law and fully achievable by the Commission today. *First*, under the Supreme Court's holding in *AT&T Corp. v. Iowa Utilities Board*,[3/] the Commission has plenary authority under sections 201 and 251(b)(5) to address the compensation rules applicable for the exchange of all telecommunications traffic, whether "local" or "long

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[3/] 525 U.S. 366 (1999).

distance," "interstate" or "intrastate." *Second*, the Commission has broad independent authority under section 254 to prohibit mechanisms—such as traditional intrastate access charges—that represent unsustainable sources of universal service funding, so long as the Commission ensures that those mechanisms are replaced with more durable support mechanisms, as the Plan provides. *Third*, as the D.C. Circuit recently indicated, the Commission has authority to prescribe, for all traffic, a uniform "bill and keep" compensation rule, under which each carrier recovers from its own subscribers the costs of transmitting calls to and from them, whether or not the intercarrier exchange of traffic happens to be "balanced."

Fourth, as confirmed by the Commission's long tradition of employing interstate mechanisms to help carriers recover costs booked as "intrastate," the Commission has full authority to implement the ICF's proposals without making formal alterations to the existing separations regime. *Fifth*, the Commission is likewise authorized to adopt the numbers/connections-based contribution methodology proposed in the Plan. *Finally*, the Commission has authority under sections 201 and 251(a) to establish just and reasonable rates for the "transiting" function performed as part of indirect interconnections.

DISCUSSION

I. THE PROBLEM: THE PRESENT SYSTEM OF INTERCARRIER COMPENSATION HARMS CONSUMERS AND CARRIERS, AND CURRENT UNIVERSAL SERVICE FUNDING MECHANISMS ARE UNSUSTAINABLE

The current amalgam of intercarrier compensation schemes disserves the interests of consumers and carriers alike. As discussed below, the only workable solution is to overhaul the existing system and, in particular, to replace today's artificial distinctions with a uniform approach to all exchanges of telecommunications traffic.

A. The Existing Rules Distort Competition and Hurt Consumers

The disparate intercarrier compensation schemes in effect today were originally designed to address discrete services under different statutory requirements and policy goals. For example, access charges for "long distance" calls evolved as a means, in part, of supporting universal service.[4/] To promote the then-fledgling enhanced services industry, however, regulators treated enhanced service providers differently for these purposes than providers of conventional long distance services.[5/] And responsibility for setting access charges has long been bifurcated between state and federal jurisdictions. In 1996, the FCC adopted reciprocal compensation rules, thereby creating a third compensation scheme.[6/] Commercial mobile radio service (CMRS) providers face still different intercarrier compensation rules, in which access charge obligations turn on whether traffic is "intraMTA" rather than, as in the case of wireline traffic, on whether it stays within an ILEC-defined local calling area.[7/] Other FCC decisions effectively preclude CMRS providers from collecting access charges.[8/]

[4/] *See* Notice of Proposed Rulemaking, *Developing a Unified Intercarrier Compensation Regime*, 16 FCC Rcd 9610, 9623 ¶ 31 (2001) ("*Intercarrier Compensation NPRM*") (noting that, "in order to encourage universal service, this Commission and state regulators historically set access charges above cost").

[5/] *See* Memorandum Opinion and Order, *MTS and WATS Market Structure*, 97 F.C.C.2d 682, 715 ¶ 83 (1983); First Report and Order, *Access Charge Reform*, 12 FCC Rcd 15982, 16131-36 ¶¶ 341-48 (1997); *see also Intercarrier Compensation NPRM*, 16 FCC Rcd at 9623 ¶ 31.

[6/] *See* First Report and Order, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 15499, 16008-58 ¶¶ 1027-1118 (1996) ("*Local Competition Order*").

[7/] *See, e.g.*, 47 C.F.R. § 51.701(b); *Local Competition Order* at 16016-17 ¶ 1043 (explaining that "traffic between an incumbent LEC and a CMRS network that originates and

As a result of these disparate regimes, the compensation a carrier owes (or collects) with respect to a given call—as well as the agency that sets that compensation—turn on increasingly meaningless distinctions such as the technology used, the fleeting location of a mobile caller, the precise geographic span between originating and terminating carriers, and the regulatory characterization of the party that originates or terminates the call. In particular, the compensation a carrier receives for termination—routing a call through the end office switch (or functional equivalent) en route to the called party—may differ radically depending on whether the call crosses state boundaries, stays within the state but crosses rate center boundaries, or remains purely "local" in that it stays within the same calling area at all times. Similarly, if the originating carrier is a CMRS provider, it might find itself subject to different compensation demands if the terminating carrier is an exempt rural carrier or a competitive local exchange carrier (CLEC) with which it has no direct, physical interconnection.[9/] Yet in each of these cases, the terminating carrier performs the same transport and termination functions.

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terminates within the same MTA . . . is subject to transport and termination rates under section 251(b)(5), rather than interstate or intrastate access charges").

[8/] *See* Declaratory Ruling, *Petitions of Sprint PCS and AT&T Corp. for Declaratory Ruling Regarding CMRS Access Charges*, 17 FCC Rcd 13192, 13196-98 ¶¶ 8-12 (2002) (providing that CMRS carriers may not impose access charges through tariffs and that IXCs need not pay access charges to CMRS carriers absent a contractual obligation to do so); *see also* Second Report and Order, *Implementation of Sections 3(n) and 332 of the Communications Act; Regulatory Treatment of Mobile Services*, 9 FCC Rcd 1411, 1480 ¶ 179 (1994) ("*CMRS Forbearance Order*") (forbearing from requiring or permitting CMRS providers to file tariffs for interstate access services).

[9/] *See, e.g., Sprint Spectrum LLP v. Missouri Pub. Serv. Comm.*, 112 S.W.3d 20, 25-26 (Mo. Ct. App. 2003) (allowing rural carriers, when terminating local traffic from CMRS carriers, to charge tariffed rates rather than complying with the reciprocal compensation regime); *see generally* Public Notice, *Comment Sought on Petitions for Declaratory Ruling Regarding*

This crazy-quilt of compensation schemes harms consumers both directly and indirectly by thwarting the development of rationally competitive telecommunications markets. First, it confronts consumers with a bewildering array of charges for different calls, and only the savviest of them can navigate the system to obtain the best rates for particular calls. For example, because of higher intrastate access charges, wireline consumers in many areas often find themselves paying higher rates to call a neighboring town than to call across the country. A wireless customer, by contrast, might pay the same rate for both calls, because wireless calls within an MTA (which can encompass multiple local calling areas and even states) are not subject to intrastate access rates.[10/] The current regime also creates incentives for interexchange carriers to seek ways to avoid access charges, particularly intrastate access charges, and for LECs or regulators to limit the scope of local calling areas to increase the number of calls for which such toll or intrastate access charges must be paid. For example, rural customers generally have smaller calling scopes than non-rural customers. As a result, customers in rural areas generally pay more in toll charges than their non-rural counterparts.[11/] At the same time, rural access charges that are significantly higher than those in urban areas may deter long distance entry and

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Intercarrier Compensation for Wireless Traffic, 17 FCC Rcd 19046 (2002) (responding to CMRS carrier's complaint that some rural LECs have filed state tariffs as a mechanism to collect reciprocal compensation for the termination of intra-MTA traffic).

10/ *See, e.g.*, 47 C.F.R. § 51.701(b).

11/ *See, e.g.*, Rural Task Force, *White Paper 2: The Rural Difference*, Jan. 2000, at 39-40, *available at* http://www.wutc.wa.gov/rtf (noting that "[f]or rural study areas overall, nearly 60 percent of the customers have calling scopes of less than 5,000 lines[,] but[] less than 20 percent have calling scopes greater than 25,000. For non-rural study areas, less than 10 percent of the customers have calling scopes less than 5,000 lines, but over 70 percent have calling scopes greater than 25,000 lines"); *id.* at 42-43 (explaining that, on average, rural customers pay $37.18 per month for toll calls, while non-rural customers pay only $29.82).

thereby deprive consumers in rural areas of the full range of long distance carriers and calling plans available to urban customers.[12/]

These are some of the *direct* harms that the current chaos in intercarrier rules inflicts on consumers; the *indirect* harms can hurt consumers just as much. Because the rules are enormously confusing, and are jury-rigged to address each new technology and service as it arises, they are typically at least one step behind the industry. The resulting uncertainty about how regulators will apply these rules destabilizes telecommunications markets, frustrates business planning, and deters efficient investment.[13/] The regulatory artificiality of the current system likewise undermines the efficient selection of winners and losers in the market. Carriers have incentives to choose one technology—or service configuration—over another to avoid higher intercarrier charges and thus obtain artificial advantages over their competitors.[14/] Less efficient carriers can thereby prevail over more efficient ones not by serving the needs of

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[12/] Part of the problem is that 47 U.S.C. § 254(g) requires IXCs to average their rates across the country, as discussed further in Part III below. High access charges in a particular rural area can therefore artificially increase an IXC's rates everywhere it provides service.

[13/] *See* Declaratory Ruling and Notice of Proposed Rulemaking, *Inquiry Concerning High-Speed Access to the Internet over Cable and Other Facilities*, 17 FCC Rcd 4798, 4802 ¶ 5 (2002) ("*Cable Modem Order*"), *vacated on other grounds by Brand X Internet Services v. FCC*, 345 F.3d 1120 (9th Cir. 2003) ("[W]e seek to remove regulatory uncertainty that in itself may discourage investment and innovation."); *CMRS Forbearance Order* at 1421 ¶ 25 (noting that "a stable and predictable federal regulatory environment . . . is conducive to continued investment . . . minimizing regulatory uncertainty and any consequent chilling of investment activity").

[14/] *See Intercarrier Compensation NPRM* at 9616 ¶ 12 (explaining that "any discrepancy in regulatory treatment between similar types of traffic or similar categories of parties is likely to create opportunities for . . . parties [to] revise or rearrange their transactions to exploit a more advantageous regulatory treatment").

consumers more effectively, but simply by gaming the regulatory system more adroitly.[15/] At the same time, under the current system, carriers that receive high intercarrier compensation payments may have incentives to protect those revenue streams in the face of competition and technological change even when doing so may not be efficient. In each case, the result is a wasteful misallocation of social resources.

The existing system also inflicts enormous transaction costs on the industry and, ultimately, on the consumers who must absorb them. First, it requires providers to devote tremendous resources to identifying calls as "local," "toll," intraLATA, interLATA, intraMTA, interstate, intrastate, CMRS, or "ISP-bound," or as "information services" or "telecommunications services," simply to divine which compensation rules should apply. Providers must likewise incur significant costs simply to measure, bill, reconcile, and dispute intercarrier compensation payments. Litigation about the application of the current rules—and about which rules to apply to which traffic—consumes many millions of dollars per year on both the federal and state levels.[16/] Those costs, too, are passed on to consumers. All of these activities are inefficient and serve no productive purpose.

B. The Existing Rules Endanger Universal Service

The inequities and gaps in today's intercarrier compensation rules also contribute to the instability of the current support system for universal service. Although some explicit universal

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[15/] *Id*. (noting that the existing system produces opportunities for parties to benefit from actions that, "in the absence of regulation, would be viewed as costly or inefficient").

[16/] *See, e.g.*, Michael Finneran, *A New Era in Telecom Regulation*, Bus. Comm. Rev., July 2004, at 20 (reporting that "the telecom industry now spends more on litigation and regulation than it spends on research and development").

service support is available at the state and federal levels, there is still some universal service support that is implicit and thus unquantified.[17/] Competition, however, is irreversibly eroding this implicit funding.[18/] And even the explicit funds in place today are unstable because they rely on contribution mechanisms that rest on increasingly untenable distinctions among legacy categories of services and carriers.

First, on the retail side, competition is undermining traditional implicit support mechanisms such as geographic rate averaging and above-cost business line rates.[19/] Historically, before the development of local competition, ILECs could charge above-cost rates for certain services (such as value-added services) and customers (such as businesses and urban

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[17/] *See, e.g.*, Order on Remand, Further Notice of Proposed Rulemaking, and Memorandum Opinion and Order, *Federal-State Joint Board on Universal Service*, 18 FCC Rcd 22559, 22571 ¶ 22 (2003) ("*Universal Service Remand Order*"); *see also Texas Office of Pub. Util. Counsel v. FCC*, 265 F.3d 313, 327-28 (5th Cir. 2001) ("*TOPUC II*") (noting FCC's difficulties in quantifying support implicit in interstate access charges).

[18/] *See, e.g.*, *Universal Service Remand Order* at 22568 ¶ 16 (explaining that Congress recognized that "it would be difficult to sustain implicit subsidies in a competitive market: competition would erode the implicit subsidies that state and, to a lesser extent, federal policies had relied on to keep rates comparable because competitive pressures would drive down above-cost rates"); *Intercarrier Compensation NPRM*, 16 FCC Rcd at 9623 ¶ 32 (noting that "the implicit subsidies historically contained in access charges are not sustainable in competitive local telecommunications markets").

[19/] *See, e.g.*, Federal Communications Commission, Industry Analysis and Technology Division, Wireline Competition Bureau, *Local Telephone Competition: Status as of December 31, 2003*, at Table 2 (June 2004), *available at* http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/lcom0604.pdf (showing that, as of December 2003, competitors had captured 25% of the market for institutional, government, and medium and large business customers).

residential customers) in order to subsidize services and customers in higher cost areas.[20/] In the wake of the 1996 Act, ILECs are losing the customers that traditionally provided this implicit support and also are having to lower their rates as they try to retain them.[21/] Competition thereby eventually destroys implicit universal service support.[22/] The Commission has thus long recognized that a system of implicit retail support is simply "not sustainable . . . in a competitive environment."[23/] Congress itself, however, directed that universal service support at the federal and state levels be reformed to be "specific, predictable and sufficient."[24/] The current reliance on implicit support violates this statutory directive.[25/]

[20/] *See* Report and Order, *Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, 8784 ¶ 11 (1997) ("*Universal Service Order*"), *aff'd in part, rev'd in part sub nom. Texas Office of Pub. Util. Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999) ("*TOPUC I*").

[21/] *See id.* at 8787-88 ¶ 17 (explaining that, "[i]n a competitive market, a carrier that attempts to charge rates significantly above cost to a class of customers will lose many of those customers to a competitor").

[22/] The erosion of implicit support also makes it less likely under the current system that customers in high cost areas can obtain the full benefits of technological innovation promised by the 1996 Act as section 254 of the Act envisions and in fact requires. *See* 47 U.S.C. § 254(b)(2) (requiring that "[a]ccess to advanced telecommunications and information services . . . be provided in all regions of the Nation"); *id.* § 254(b)(3) (mandating that customers in high cost areas "have access to telecommunications and information services, including . . . advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas"); *id.* § 254(c)(1) (requiring the Commission, when defining universal service, to "tak[e] into account advances in telecommunications and information technologies and services").

[23/] *Universal Service Order* at 8786-87 ¶ 17.

[24/] 47 U.S.C. § 254(b)(5) (requiring the Commission to ensure that there are "specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service").

[25/] *See Comsat Corp. v. FCC*, 250 F.3d 931, 939 (5th Cir. 2001) ("the 'FCC cannot maintain any implicit subsidies' whether on a permissive or mandatory basis").

The same is true not just of end user rates, but of access charges—the fees that long distance carriers pay for access to the local network. To the extent that above-cost intrastate access charges, in particular, support lower local retail rates, arbitrary distinctions in intercarrier compensation mean that only some providers and services—those that are subject to access charges—pay this support, while others do not. Such regulatory disparities place increasing strains on traditional support mechanisms. The amount that the largest wireline LECs collect in access charges has been shrinking as more traffic leaves the wireline network and is carried by CMRS and VoIP providers.[26/] This migration of traffic is occurring in part *because* regulatory disparities provide these service providers with significant cost advantages over carriers that must pay access charges.

At the same time, even explicit universal service funding has become increasingly unstable because the contribution obligation at the federal level—the primary source of explicit support—is itself tied to economically arbitrary classifications of services and providers. For the

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[26/] *Compare* National Exchange Carrier Association access minutes of use data for second quarter 2000, *available at* http://www.fcc.gov/wcb/iatd/neca.html, Carrier Common Line Access Minutes of Use, mou00-01.zip, *with* National Exchange Carrier Association access minutes of use data for second quarter 2004, *available at* http://www.neca.org/wawatch/wwpdf/091704_4.pdf, Washington Watch for Sept. 17, 2004 (showing decline in interstate access minutes of more than 25 percent over the last four years); *see also* Jeffrey Halpern, *US Telecom: A Slow Growth Industry with Few Positive Longer-Term Catalysts; Marketweight with a Negative Bias*, Bernstein Research Call, May 21, 2004, at 15-16 & Exhibit 25 (estimating that Tier 1 wireline long distance providers have lost 24 percent of their expected retail market volume and predicting that wireless, VoIP, and other technologies will capture 60% of the market by 2008); Yankee Group News Release, *U.S. Consumer Long Distance Calling Is Increasingly Wireless, Says Yankee Group*, Mar. 23, 2004, *available at* http://www.yankeegroup.com/public/news_releases/news_release_detail.jsp?ID=PressReleases/news_03232004_cts_2.htm (discussing survey results showing that wireless users now make over 40 percent of their long distance calls on wireless phones).

most part, federal USF contributions today are assessed only on the basis of a provider's retail revenues for the provision of interstate (and international) telecommunications.[27/] But identifying such revenues is no longer the straightforward exercise it once was. "All you can eat" buckets of undifferentiated minutes, including those offered by wireless carriers, make it difficult to earmark revenues reliably and non-arbitrarily as "interstate" or "intrastate."[28/] New, inherently mobile and packet-based services such as VoIP, as well as bundles including multichannel video or other non-telecommunications services, also present jurisdictionalization and revenue allocation challenges.[29/] In addition, only certain providers currently contribute to explicit universal service. For example, providers of cable modem service do not, even though DSL providers must.[30/] And carriers that provide only international services do not contribute,

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[27/] *See, e.g.*, 47 C.F.R. § 54.709(a).

[28/] *See* Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, *Federal-State Joint Board on Universal Service*, 13 FCC Rcd 21252, 21257-58 ¶ 11 (1998) (establishing "safe harbor percentages" as proxies for the percentage of interstate wireless telecommunications revenues generated by each category of wireless telecommunications provider); *see also Interim Universal Service Order* at 24954-61 ¶¶ 1-15 (refining contribution methodology).

[29/] *See, e.g.*, Memorandum Opinion and Order, *Petition for Declaratory Ruling that pulver.com's Free World Dialup Is Neither Telecommunications Nor a Telecommunications Service*, 19 FCC Rcd 3307, 3307 ¶ 1 (2004) ("*Pulver Order*") (declaring Pulver.com's VoIP service to be an interstate information service).

[30/] *Compare Cable Modem Order* at 4853 ¶ 110 (noting that the Commission was merely "considering" whether providers of cable modem service should contribute to universal service), *with* Notice of Proposed Rulemaking, *Appropriate Framework for Broadband Access to the Internet Over Wireline Facilities, Universal Service Obligations of Broadband Providers*, 17 FCC Rcd 3019, 3051 ¶ 72 (2002) ("*Wireline Broadband NPRM*") (explaining that a wireline telecommunications carrier must contribute to universal service if it offers wireline broadband Internet access to end users for a single price).

while their full-service competitors contribute on the basis of their interstate *and* international revenues.[31/]

These competitively biased distinctions in contribution obligations, of course, give providers of non-contributing services (or services subject to reduced contribution obligations) an arbitrary competitive advantage over contributing providers. That advantage skews the market and thus further reduces the contribution base as traffic migrates to service arrangements that minimize the amount of revenue associated with "interstate telecommunications" or to platforms or offerings exempt from contribution obligations entirely. As the Commission recently observed, this self-reinforcing problem has escalated to a point of genuine crisis:

> [I]nterstate telecommunications revenues are becoming increasingly difficult to identify as customers migrate to bundled packages of interstate and intrastate telecommunications and non-telecommunications products and services. This has increased opportunities to mischaracterize revenues that should be counted for contribution purposes. Such mischaracterization may result in decreases in the assessable revenue base. Increased competition also is placing downward pressure on interstate rates and revenues, which also contributes to the decline in the contribution base. For example, traditional long-distance providers increasingly are entering local markets at the same time that competitive and incumbent local exchange carriers are increasingly providing long-distance services. Customers also are migrating to mobile wireless and Internet-based services. As we recently noted, these changes have led to fluctuations in the contribution base and rising contribution obligations.[32/]

Of course, as those contribution obligations increase, the carriers bearing them incur ever higher costs they must pass along to their customers, and those customers will thus be even more likely to defect to other carriers exempt from such contribution obligations. The result is a classic

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31/ *See* 47 C.F.R. § 54.706(c).

32/ *See Interim Universal Service Order* at 24955 ¶ 3 (footnotes omitted).

regulatory death spiral for the future of universal service funding, which could hardly have come at a worse time: by the Wireline Competition Bureau's estimate, the *demands* for such funding are poised to increase dramatically.[33/] For all of these reasons, the need for genuine reform of the universal service system is exceptionally urgent.

II. THE SOLUTION: THE ICF PLAN COMPREHENSIVELY RESOLVES THE CURRENT MORASS

The Commission and the industry have struggled with these issues for years. These problems are so intractable in part because any solution must be comprehensive. Reform of intercarrier compensation without simultaneous reform of the existing universal service system, which continues to rely on implicit support inherent in today's intercarrier charges, would have serious consequences for many American consumers, particularly those in rural areas. Similarly, reform of some intercarrier compensation regimes and not others could potentially exacerbate competitive imbalances as traffic shifts to the advantaged services. Reform has also been difficult because self-interest has led different industry factions to favor radically divergent solutions to particular intercarrier compensation issues.

The ICF Plan embodies a comprehensive, inseverable proposal to reform both intercarrier compensation and universal service. The Plan was painstakingly developed by a broad cross-section of the industry. Over the course of many months of discussion, the group devised a

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33/ *See, e.g., id.*; *Commission Seeks Comment on Staff Study re Alternative Contribution Methodologies*, Public Notice, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, FCC No. 03-31 (rel. Feb. 26, 2003) ("*Staff Study*") (projecting a 16 percent increase in USF funding obligations from 2003 to 2007, even assuming no growth in high-cost loop, local switching and interstate common line support mechanisms and no increase in competitive eligible telecommunications carrier ("CETC") market entry).

global solution that comprehensively and rationally resolves the industry-wide challenges discussed above.[34/] The specific proposals are spelled out in the formal Plan document attached as Appendix A and summarized in Appendix B. Our goal in this section is not to delineate the Plan in all of its detail, but rather to show how, in contrast to other reform proposals, the Plan will relieve the serious problems described above.

Intercarrier Compensation and Network Interconnection. The Plan tackles intercarrier compensation problems in two ways. First, it establishes clear rules for *direct* interconnection arrangements between two carriers as well as *indirect* interconnection arrangements involving the transport facilities of intermediate ("transiting") carriers. Second, it provides both immediate and stable, long-term relief from the irrationality of the current system, reforming and unifying the existing hodge-podge of intercarrier compensation arrangements, with a gradual phase-in of bill and keep for all traffic.[35/]

Attached as Appendix C to this Brief is a series of diagrams illustrating today's amalgam of disparate network interconnection arrangements and their utterly irrational financial

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[34/] No party would have been prepared to sign on to each of the Plan components taken individually. But all the components of the Plan have the full support of the ICF members as part of a broad, seamless reform program.

[35/] "Bill and keep" under the ICF Plan means that if a calling party's carrier hands off a call to a called party's carrier at a prescribed point in the latter's network, the called party's carrier must look to its customers, not the calling party's carrier, for compensation. Under the Plan, carriers would nonetheless pay for their use of other carriers' networks for transit or backhaul and for the use of special access and other dedicated facilities leased from those other carriers. Both the network interconnection and the intercarrier compensation provisions include special modifications for rural carriers to ensure that such carriers, and thus rural ratepayers, are adequately protected. For example, certain rural carriers (defined in the Plan as "Covered Rural Telephone Companies"), unlike the major LECs, are given ongoing opportunities to continue to recover transport revenues for carrying terminating traffic within their service territories.

consequences. These diagrams, submitted to the Commission in connection with ICF's August 19, 2004 ex parte presentation, represent a major effort by present and former ICF member companies to provide the Commission with a systematic organized overview of what is wrong with today's intercarrier compensation system. Appendix D contains a second series of network diagrams which present the network configurations and financial arrangements for these same or similar network configurations under the Plan. This second set of diagrams illustrates how the Plan meets the rate structure, uniformity and universal service goals described in this Brief.

When complete, this transition to bill and keep will mean that when an originating carrier drops off a call at a designated point of interconnection (known in the Plan as a network "Edge") with a terminating carrier, the latter carrier cannot seek to recover its associated network costs from the originating carrier. Instead, the terminating carrier must recover all of its costs from its own end users (and, to the extent necessary, from one of the universal service mechanisms described below). The terminating carrier will thus no longer recover its own transport and termination costs from the originating carrier—and ultimately from *that* carrier's end users—in the form of access charges or reciprocal compensation. This will have the benefit of giving every carrier control over its cost structure. And by making each carrier responsible to *its own* customers for the recovery of its network costs, the Plan will force carriers to compete for customers on the basis of the efficiency and value of the services provided, not on the basis of comparative ability to exploit arbitrary regulatory distinctions.[-] Put differently, the Plan will permit competition, rather than regulation, to drive consumer choice in telecommunications markets, a change that will become increasingly important with the accelerating pace of

technological change.[36/] It thus furthers Congress' goal of establishing a "pro-competitive, de-regulatory national policy framework" for the telecommunications industry.[37/]

To ensure that all rate-regulated carriers can cover their costs and serve their customers effectively, the Plan makes up for reductions in intercarrier revenues by permitting a phased-in increase in end user charges—the federal subscriber line charge (SLC)—and by establishing the new universal service funding programs discussed below.[38/] For several reasons, this shifting of cost-recovery mechanisms will significantly benefit consumers. First, under the Plan, end users will pay directly (and efficiently) costs that they now already pay indirectly (and inefficiently). For example, the SLC increases merely make up to some degree for revenues that LECs currently charge other carriers. Without the Plan, the other carriers that now pay those charges—such as IXCs, LECs, or CMRS carriers—would continue passing them on to consumers in the form of higher end user rates. Under the Plan, however, competition will induce those carriers to reduce these end user rates substantially once their compensation obligations are eliminated. And competition, as well as the pricing flexibility the Plan affords, is likely to pressure LECs

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[36/] *See, e.g.*, Patrick DeGraba, Federal Communications Commission, OPP Working Paper Series, No. 33, *Bill and Keep at the Central Office As the Efficient Interconnection Regime* at 25 ¶ 87 (Dec. 2000) ("*DeGraba Working Paper*") (noting that a technologically neutral bill-and-keep regime "reduces the likelihood that a carrier will choose a less efficient technology solely because it receives more favorable regulatory treatment . . . [and] gives carriers the incentive to use the technology that provides services at the least cost").

[37/] H.R. CONF. REP. NO. 104-458, at 1 (1996).

[38/] The SLC increases will occur only gradually, and even those gradual increases are modified for rural and low-income customers. For example, the ICF Plan protects low-income consumers by exempting Lifeline customers from SLC increases.

themselves to avoid adopting all of the SLC increases the Plan allows, thus producing decreases in the total charges that end users pay.

Just as important, the Plan will benefit consumers by freeing the telecommunications marketplace of the waste and investment-deterring uncertainty attributable to intercarrier compensation disputes under today's fractured system. The Plan's clear rules will eliminate such disputes, free up resources now dedicated to litigation and to unproductive tracking and auditing efforts, and allow carriers to make more rational decisions about how to design their networks and services to produce the greatest consumer value. Moreover, the Plan will enable market forces—in the form of consumer choice among competing carriers—to keep charges in efficient alignment with the underlying costs. The present regime, in contrast, holds an originating carrier captive to the rates charged by terminating carriers. And, because a terminating carrier has the incentive to overcharge originating carriers for its termination costs, any form of the present "calling party's network pays" ("CPNP") regime would require regulatory ratemaking proceedings in perpetuity. As the Commission has indicated, it is nearly impossible for even the most proficient regulator to get termination rates "right," and command-and-control regulation is in any event inherently less capable than market forces of matching individual rates to costs.[39/] For that reason alone, the Plan is clearly superior to any alternative proposal to "reform"

[39/] Order on Remand and Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic*, 16 FCC Rcd 9151, 9185-86 ¶ 76 (2001) (*"ISP Remand Order"*), *remanded on other grounds, WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002), *cert. denied*, 538 U.S. 1012 (2003).

intercarrier compensation by maintaining a CPNP system but adjusting some or all of the rate levels.

In addition, the Plan's bill-and-keep approach allocates costs to "cost causers" at least as accurately as, and likely more accurately than, the existing CPNP regime. The fundamental premises of the present system are that the sole cost-causer and sole beneficiary of a typical telephone communication is the caller; thus, all costs of transporting the communication are imposed on the caller's network (and indirectly on the caller).[40/] Those premises, which underlie both the reciprocal compensation and access charge regimes, are incorrect. A substantial share of the costs of telecommunications traffic is caused by the decisions of called parties to make their numbers available to callers, to answer incoming calls, and to remain on the line. Indeed, the called party's responsibility for a share of those costs has never been clearer, now that widespread use of caller ID permits end users to screen all calls and the national do-not-call registry has enabled them to declare their phone numbers off-limits to unwanted telemarketers.[41/] Likewise, since a completed call involves parties at both ends, it is incorrect to view the caller as the sole beneficiary of a call. While no regime can always capture the precise proportion of costs and benefits attributable to each call participant, the generalization underlying bill and keep—

[40/] *See, e.g.*, *Intercarrier Compensation NPRM* at 9619 ¶ 19 & n.36 (noting widespread assumption that the calling party is the sole cost causer of the call); *id.* at 9624-25 ¶ 37 (explaining that "CPNP regimes may be viewed as implicitly embracing the premise that the originating caller receives all the benefits of a call and should, therefore, bear the costs of both origination and termination").

[41/] *See* Report and Order, *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 18 FCC Rcd 14014, 14017 ¶ 1 (2003); *DeGraba Working Paper* at 33-34 ¶ 118 (noting that "parties, using caller-ID or similar devices, could screen their calls"). Similarly, consumers may choose to have an unlisted number to avoid unwanted calls.

that costs and benefits are shared—is far more accurate than the generalization of the current CPNP system that the calling party is solely responsible for causing 100% of the costs of all calls and deriving 100% of the benefits.

The Plan achieves all of the objectives described above while leaving intact the most important spheres of state regulatory authority. The Plan fully preserves state authority to cap local *end user* rates, and to establish state universal service funds that are consistent with, and do not rely on or burden, the federal USF mechanisms. The Plan likewise permits the states to fulfill their traditional roles as the guardians of consumer welfare. States will further retain the authority to require investment in facilities and services, to approve voluntary interconnection and intercarrier compensation agreements, to arbitrate open issues when carriers cannot reach agreement, and to enforce agreements when disputes arise. Importantly, though, arbitrations and disputes should be far less common under the Plan.

In addition to the consumer benefits discussed above, the Plan will further advantage consumers in a number of other key respects. First, it will create the regulatory certainty needed to generate additional investment in telecommunications markets—in new technology, infrastructure upgrades, and new services. Second, by eliminating regulatory anomalies that affect and distort investment decisions, the Plan will result in a more efficient allocation of societal resources. Moreover, by removing artificial and inefficient constraints on pricing and service options, the Plan will allow providers to rationalize their pricing plans. In particular, it will provide carriers with more flexibility to respond efficiently to the widespread preference of many consumers for bundled packages of indistinguishable service minutes. Similarly, under the Plan, competition will significantly reduce the prices for intrastate calling and eliminate current disparities between interstate and intrastate long distance rates. The same competitive pressures

will tend to eliminate the distinction between "local" and "toll" calls. Rural customers will enjoy the benefits of more long distance competition once long distance carriers no longer face the disincentive of high access charges.

All consumers nationwide, moreover, will enjoy the benefits of the increased broadband investment and innovation that the Plan will stimulate. Under the Plan, every network owner and service provider contemplating broadband investment or other innovation will know with certainty the uniform financial impacts associated with interconnection and exchange of traffic. Every network owner and service provider can expect a radical reduction in regulatory costs. And every network owner and service provider will be able to invest with confidence that universal service needs will be met with stable universal service mechanisms. In this regard, too, the ICF Plan stands apart from other reform proposals, each of which would preserve (and, in some cases, exacerbate) inefficiencies and uncertainties that plague existing intercarrier compensation and universal service regimes.

Universal Service. The Plan seeks to eliminate unsustainable implicit universal service support by creating two new explicit support mechanisms. To the extent other revenues permitted by the Plan do not otherwise do so, these mechanisms are designed to provide adequate funding to preserve universal service as intercarrier compensation is eliminated. The two new funds created by the Plan are the "Intercarrier Compensation Recovery Mechanism" ("ICRM") for non-rural local telephone companies and the "Transitional Network Recovery Mechanism" ("TRNM") for rural carriers.[42/]

[42/] ICRM support is portable. TNRM support is portable only to ETCs that would have

The Plan also broadens and stabilizes the funding source for universal service support by creating a new, unified contribution methodology. This methodology eliminates arbitrary regulatory exemptions from contribution obligations and thus ensures that more providers share the cost of universal service. Specifically, the Plan relies on a numbers/connection-based assessment methodology under which every provider is assessed one "unit" of contribution for each unique working telephone number it provides, and for each residential DSL, cable modem, and other high-speed, non-circuit-switched connection. Other connections, such as non-switched, dedicated business connections, are assessed different units on the basis of their capacity.

The Plan thus preserves and advances universal service in a competitively neutral and sustainable manner. It eliminates reliance on eroding implicit support and helps address the artificial competitive advantages associated with imposing the cost of supporting universal service on only a subset of providers offering similar, competing services. And the Plan ensures a more stable funding base by spreading the obligation to support universal service among a broader range of providers and eliminating loopholes based on service type, geography, or technology. Finally, the Plan helps the states by recovering intrastate costs that are recovered now, if at all, through rapidly eroding implicit support, and it does so without causing any of the

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reduced access revenues as a result of the Plan (e.g., not CMRS carriers), because TNRM support is calculated specifically to replace critical support, on a revenue neutral basis to the CRTC, that the CRTCs and non-CMRS CETCs would lose as a result of the Plan's elimination of such revenues. Because CRTCs and non-CMRS CETCs are disproportionately dependent on the support such revenues provide, TNRM support is not available to CMRS carriers, which do not receive such support from access revenues, during the fund's initial transitional period. Under the Plan, the Commission would revisit the criteria for ETC eligibility for TNRM support in 2013.

rate shock that might accompany immediate rate rebalancing in the absence of such support mechanisms.

In sum, the ICF Plan greatly promotes the public interest because, to the benefit of consumers and the industry alike—and unlike any other reform proposal that has been submitted to the Commission—it comprehensively meets each of the key regulatory objectives noted at the outset of this brief. The Plan eliminates artificial distinctions in both rates and rate structures; it unifies today's disparate rules for allocation of financial responsibility among interconnected carriers; and it accomplishes these reforms while still protecting universal service and, in particular, rural America's access to affordable telecommunications and information services. Moreover, the Plan will provide a stable, predictable platform for 21st century innovation, thereby promoting broadband and IP-enabled investment, creating a level competitive playing field, and enabling a dramatic reduction in regulatory intervention and the associated costs. Finally, as we now show, the Commission has ample authority to adopt the Plan under existing law.

III. THE PLAN IS CONSISTENT WITH EXISTING LAW

A. The Commission Has Full Jurisdiction Under the Communications Act, as Amended by the 1996 Act, to Establish Uniform Intercarrier Compensation Rules for All Classes of Traffic

Section 201(b) of the Communications Act authorizes the Commission to "prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this Act." As the Supreme Court confirmed in *Iowa Utilities Board*, the Commission's section 201(b) rulemaking jurisdiction is not limited to jurisdictionally interstate matters covered elsewhere in section 201. Instead, it extends to *all* provisions of the Communications Act, including the provisions added by the Telecommunications Act of 1996 that encompass matters

that, before 1996, fell within the exclusive jurisdiction of the states.[43/] It is thus undisputed that the Commission may adopt rules implementing section 251(b)(5) and the other statutory provisions governing carrier interconnection with respect to all traffic—interstate and intrastate—within the scope of those provisions. This authority permits the Commission to implement the ICF Plan's comprehensive approach to intercarrier compensation for any exchange of telecommunications traffic.

Congress drafted section 251(b)(5) expansively to bring national consistency to questions of intercarrier compensation. By its terms, this provision extends to all compensation issues relating to the transport and termination of "telecommunications" involving any local exchange carrier. The breadth of that language is significant in three principal respects. *First*, and perhaps most important, section 251(b)(5) makes no distinctions among traffic on the basis of jurisdiction ("local," "toll," "intrastate," "interstate") or service definition (*e.g.*, "exchange access," "information access," or "exchange service"). All such traffic is plainly "telecommunications." In its *ISP Remand Order* in 2001, the Commission was thus entirely correct in concluding that "[w]e were mistaken [in the *Local Competition Order*] to have characterized" section 251(b)(5) as limited to local traffic, given that "'local' . . . is not a term used in section 251(b)(5) or section 251(g)."[44/] The D.C. Circuit left this conclusion intact on review, although it took issue with other aspects of the *ISP Remand Order*.[45/]

[43/] *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366, 377-86 (1999).

[44/] *See ISP Remand Order* at 9167, 9172 ¶¶ 34, 45.

[45/] *See WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002).

If it had wished, of course, Congress could have limited the scope of this provision to "local telecommunications," to "telecommunications that originate and terminate within the same local calling area," or to "telecommunications handed off from one LEC directly to another LEC." But Congress included no such limitations on the scope of section 251(b)(5). Instead, it drafted section 251(b)(5) broadly to address all "telecommunications," the most expansive of the statute's defined terms.[46/] Despite the clarity of this statutory language, some continue to argue that the Commission's jurisdiction to implement section 251(b)(5) extends only to "local" traffic and that the Commission thus lacks authority under that provision to address intercarrier compensation issues relating to any category of traffic that is deemed to be neither "local" nor "interstate." This misguided effort to carve up the Commission's rulemaking authority on the basis of such legacy jurisdictional categories is not just irreconcilable with the plain language of section 251(b)(5), but strikingly similar to the unavailing attacks in the 1990s on the Commission's jurisdiction to implement sections 251 and 252 more generally. Here, as in that context, the attempt to "produce[] a most chopped-up statute" along jurisdictional lines is flawed both because it violates the statutory text and because it is "most unlikely that Congress created such a strange hodgepodge."[47/]

Second, as the Commission has further found, section 251(b)(5) applies not just to the exchange of traffic between two LECs, but more broadly to the exchange of any traffic involving

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[46/] *See* 47 U.S.C. § 153(43).

[47/] *Iowa Utils. Bd.*, 525 U.S. at 381 n.8.

a LEC at one end.[48/] In other words, although the obligation to establish reciprocal compensation arrangements for the transport and termination of telecommunications falls on LECs, Congress did not limit to other LECs the class of potential *beneficiaries* of that obligation.

Third, as the Commission has further indicated, section 251(b)(5) covers intercarrier compensation issues on the originating end of a call as well as the terminating end, even though it explicitly addresses only the "transport and termination of telecommunications." As the Commission recognized in the *Local Competition Order*, because section 251(b)(5) provides for intercarrier compensation only for termination of traffic and does not authorize charges for originating traffic, LECs could no longer charge CMRS providers or other carriers for LEC-originated traffic.[49/] Thus, with the exception of pre-1996 Act compensation rules temporarily grandfathered by section 251(g), section 251(b)(5) is properly read to bar carriers from imposing any charges, including access charges, for the costs of originating traffic.

Because the statutory language itself compels the conclusion that the Commission's section 251(b)(5) authority extends to *all* telecommunications involving a LEC, the Commission would face formidable litigation risks were it now to reverse course yet again on the scope of section 251(b)(5). Indeed, as the D.C. Circuit recently admonished, "[e]ven under the deferential

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[48/] *See Local Competition Order* at 16016 ¶ 1041 ("Although section 251(b)(5) does not explicitly state to whom the LEC's obligation runs, we find that LECs have a duty to establish reciprocal compensation arrangements with respect to local traffic originated by or terminating to *any* telecommunications carriers," including non-LEC CMRS providers) (emphasis added). Where Congress intended LECs' 1996 Act obligations to run only to a limited class of carriers, it did so explicitly. *See, e.g.*, 47 U.S.C. § 251(b)(3) ("The duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service. . . .").

[49/] *Local Competition Order* at 16016 ¶ 1042.

Chevron standard of review, an agency cannot, absent strong structural or contextual evidence, exclude from coverage certain items that clearly fall within the plain meaning of a statutory term."[50/] The statutory context in which the D.C. Circuit enforced that principle is closely analogous to the statutory context here. Just as the court applied that principle to reject the Commission's "argument that long distance services are not 'telecommunications services'" for purposes of section 251(d)(2), so too is the Commission barred from finding that particular categories of "telecommunications" do not *count* as "telecommunications" for purposes of section 251(b)(5).

Were there any remaining question about the Commission's jurisdiction to address all telecommunications under section 251(b)(5), including access traffic, it would be resolved by section 251(g). That provision singles out access traffic for special treatment and temporarily grandfathers the pre-1996 rules applicable to such traffic, including rules governing "receipt of compensation."[51] There would have been no need for Congress to have preserved those compensation rules against the effects of section 251 if section 251(b)(5) did not in fact address the "receipt of compensation" for the traffic covered by section 251(g)—*i.e.*, access traffic. Because Congress is presumed not to have wasted its breath, the only sensible interpretation of section 251(g) confirms what section 251(b)(5) already makes clear on its face: that intercarrier compensation for all access traffic falls within the broad scope of the Commission's jurisdiction to implement section 251.

50/ *USTA v. FCC*, 359 F.3d 554, 592 (D.C. Cir. 2004).

51/ 47 U.S.C. § 251(g).

In a footnote of the *ISP Remand Order*, the Commission obliquely suggested that "ambiguity" in the scope of "telecommunications" might support a construction that *intrastate* access traffic falls outside of section 251(b)(5).[52/] As noted, however, there is no such ambiguity: the statutory definition of "telecommunications" straightforwardly encompasses all access traffic. Moreover, there is no basis for the apparent policy concern that motivated the Commission to look for ambiguity in this unambiguous language—*i.e.*, a concern that (i) section 251(g) preserves only the *interstate* access charge regime (until the adoption of superseding Commission regulations) but not the parallel intrastate access regime and (ii) Congress should be presumed not to have intended to have undercut the latter regime immediately upon enacting the 1996 Act.[53/] No less than its interstate counterpart, the intrastate access charge regime derives from the 1982 AT&T consent decree and the subsequent GTE decree.[54/] Contrary to the

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[52/] *See ISP Remand Order* at 9168 ¶ 37 n.66.

[53/] *See id.*

[54/] Before 1982, compensation for interexchange access was generally derived through an AT&T-administered system of settlements and division of revenues. Second Supplemental Notice of Inquiry and Proposed Rulemaking, *MTS and WATS Market Structure*, 77 F.C.C.2d 224, 227-28, 234 ¶¶ 15-19, 47 (1980). The AT&T consent decree replaced that system with a regime of federal *and* intrastate access charges. *See United States v. AT&T Co.*, 552 F. Supp. 131, 227, 233 (D.D.C. 1982); Third Report and Order, *MTS and WATS Market Structure*, 93 F.C.C.2d 241, 246 ¶ 11 (1983). The court order accompanying the consent decree made clear that the decree required access charges to be used in both the interstate and intrastate jurisdictions: "Under the proposed decree, state regulators will set access charges for intrastate interexchange service and the FCC will set access charges for interstate interexchange service." *AT&T*, 552 F. Supp. at 169 n.161. Thus, both interstate and intrastate access charges were borne of the same "consent decree," and both are preserved under section 251(g). There is also no evidence in the legislative history that Congress intended to treat intrastate access charges any differently, for grandfathering purposes, from interstate access charges. To the contrary, the House Conference Report broadly states that "the substance of this new statutory duty" under section 251(g) "shall be the equal access and nondiscrimination restrictions and obligations,

Commission's apparent belief, therefore, the intrastate access regime falls squarely within the ambit of section 251(g), which grandfathers "equal access and nondiscriminatory interconnection . . . obligations (including receipt of compensation) . . . under any court order, consent decree," or FCC order. Indeed, it would have been perverse for Congress to have authorized the Commission to reform intercarrier compensation rules relating to "local" and "interstate" traffic but *not* the rules applicable to the one class of traffic—intrastate access—that is subject to the *highest* above-cost charges and that is generally thought to be most laden with unsustainable implicit support.

In any event, even if section 251(g) were read *not* to grandfather intrastate access charges, that reading would raise no pragmatic concerns about the broad scope of section 251(b)(5), for the Commission could still exercise its well-established authority to impose interim rules ensuring a smooth transition to a new regulatory regime. Indeed, in a variety of contexts, and particularly in matters of intercarrier compensation, the courts have long upheld the Commission's expansive authority to take reasonable transitional measures needed to protect the industry from sudden disruptions.[55/] The Commission's authority to adopt similar measures to manage the transition from access charges to a unified section 251(b)(5) regime forecloses any claim that Congress must have meant to exclude intrastate access charges permanently from the scope of section 251(b)(5). And this same authority permits the Commission to adopt the ICF

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including receipt of compensation, that applied to the local exchange carrier immediately prior to the date of enactment, *regardless of the source*." H.R. CONF. REP. NO. 104-458, at 123 (1996) (emphasis added).

[55/] *See, e.g., CompTel v. FCC*, 309 F.3d 8, 15 (D.C. Cir. 2002); *CompTel v. FCC*, 117 F.3d 1068, 1073-75 (8th Cir. 1997).

Plan's proposed transition from the present schemes of intercarrier compensation to a unified system based on bill-and-keep principles.

B. The Commission May Additionally Assert Preemptive Authority Over "Intrastate" Traffic Under Section 254

For the reasons discussed, the Commission has full authority under sections 201 and 251(b)(5) alone to adopt rules governing any exchange of telecommunications traffic, regardless of legacy jurisdictional considerations. As a belt-and-suspenders safeguard, however, the Commission can and should exercise its independent authority under section 254 as an additional basis for mandating a transition to a uniform rule of bill and keep for all traffic. In particular, the Commission can and should preempt intrastate access charges on the ground that they are inconsistent with the Commission's duty under section 254 to rationalize universal service support. In so doing, the Commission need not (and should not) stop with a simple prohibition on the use of cross-subsidies within access charges. More broadly, it should find that intrastate access charges generally have been universally and substantially above cost and that it would be impractical to determine the precise degree to which they are so. The Commission thus may order the complete abolition of access charges on the ground that those charges are inconsistent with the principles of the Act generally and should be replaced by a more rational and sustainable source of universal service support.

Along with section 254(d), section 254(b)(5) requires the Commission to create "specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service." As the Tenth Circuit held in its 2001 *Qwest* decision, "the Act requires the FCC to base

its policies on the principle that there should be sufficient [and explicit] *state* mechanisms to promote universal service. Thus, the FCC must ensure that these mechanisms exist."[56/] Sections 254(b)(4), 254(d), and 254(f) further require the Commission to ensure that the contribution mechanisms for universal service funding are "equitable and nondiscriminatory."[57/]

In each of these respects, the Commission has ample authority to preempt state regulation at odds with these federal universal service principles, both to discharge its obligation to ensure that state mechanisms are "sufficient" and to ensure that no state adopts regulations that violate section 254(f) in that they are "inconsistent with the Commission's rules to preserve and advance universal service."

Here, above-cost access charges—used as a source of universal service support, whether state or federal—violate all of these requirements of section 254. In particular, it would be impossible for the states to determine which portions of access charges represent the genuine "costs" of particular access services and which represent implicit support. As discussed in Part I of this brief, moreover, support embedded in intrastate access charges is highly vulnerable to competition and avoidance. Because this implicit support is therefore neither "predictable" nor "sufficient" as a support mechanism, the Commission is plainly authorized, under the Tenth Circuit's analysis, to replace it with more robust funding mechanisms.[58/]

[56/] *Qwest Corp. v. FCC*, 258 F.3d 1191, 1200 (10th Cir. 2001) (emphasis added).

[57/] *See also Universal Service Order* at 8801-02 ¶¶ 46-49 (noting that "competitive neutrality" is required and that "the principle of competitive neutrality in this context should include technological neutrality").

[58/] *See* Notice of Proposed Rulemaking, *IP-Enabled Services*, 19 FCC Rcd 4863, 4865-66 ¶ 3 n.11 (2004) (discussing the past erosion of access charges and the future threat posed by

Reliance on above-cost intrastate access charges is likewise inconsistent with the requirement that contributions to universal service must be "equitable and nondiscriminatory." First, even though IXCs, ISPs, and CMRS providers all use local exchange networks, access charge obligations vary and often turn on regulatory classifications rather than the nature of the use of local exchange facilities. Second, ILECs alone bear the risk of, and the burden of covering, any shortfall in such funding due to the erosion of access charges. Third, some carriers—CMRS providers—are not even entitled to collect access charges, and such charges are thus not fully "portable."

Access charges also greatly exacerbate the extent to which the geographic rate-averaging requirement of section 254(g) produces economically inefficient implicit cross-subsidies. That provision requires IXCs to charge the same retail rates to subscribers in high-cost areas as to subscribers in urban areas. Because the current access charge regime requires IXCs to cover a portion of each LEC's own network costs and then pass those costs along to their end users, it subjects the recovery of those costs to cross-subsidies. When a LEC charges an IXC high access charges to originate a call, for example, the IXC cannot pass those charges back directly to the subscriber that initiated the call; it must instead spread those charges over its entire national subscribership base. Long distance subscribers in urban areas and in states that have low access charges therefore must artificially subsidize low rates for subscribers in rural areas and states

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increased competition); *Intercarrier Compensation NPRM*, 16 FCC Rcd at 9616 ¶ 12 (recognizing the many arbitrage opportunities created by access charges); Order, *Access Charge Reform*, 12 FCC Rcd 10175, 10182-83 ¶¶ 17, 16 (1997) (noting that the support implicit in access charges is "sustainable only in a monopoly environment" and has "never been precisely quantified").

with high access charges. Because of the geographic averaging requirement, high access fees erect a barrier to entry into the long distance market, for IXCs have a disincentive to expand into markets with such fees if they have to average those unusually high costs into their retail rates nationwide. If access charges were eliminated, by contrast, those costs would never be the responsibility of the IXCs to begin with and would therefore fall outside the scope of the section 254(g) national rate-averaging requirement.

For all of these reasons, the Commission has broad authority to preempt continued reliance on access charges to subsidize universal service.[59/] The Commission is thus fully empowered to replace intrastate access charge schemes with more neutral and durable funding systems.

C. The Commission Has Substantive Authority to Impose Bill and Keep for All Telecommunications Traffic and to Impose the ICF Plan's Proposed Transition from Current Rates to Bill and Keep

The Commission not only has *jurisdiction* to impose a unified intercarrier compensation system for all traffic, but also the authority to prescribe a transition to bill and keep in particular as the substantive compensation rule, even for "unbalanced" traffic subject to the pricing rules of sections 251(b)(5) and 252(d)(2).

In the *Local Competition Order*, at the same time that the Commission erroneously limited the scope of section 251(b)(5) to local traffic, it also found—more as a matter of policy than of statutory interpretation—that bill and keep was inappropriate for unbalanced traffic.[60/] In

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59/ 47 U.S.C. § 254(b)(5), (d); *see Qwest v. FCC*, 258 F.3d 1191, 1203-04 (10th Cir. 2001).

60/ *See Local Competition Order* at 16054-55 ¶¶ 1111-12.

the present context of comprehensive intercarrier compensation reform of *all* traffic, including access traffic, the Commission now should focus more carefully on the breadth of its statutory authority and reach the contrary conclusion—namely, that the text of section 252(d)(2) permits the Commission to order bill and keep for all traffic, including unbalanced traffic.[61/]

As an initial matter, section 252(d)(2)(A) directs the Commission and the states (i) to "provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier," and (ii) to "determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls." This language is perfectly consistent with a regime, such as bill and keep, in which each carrier is afforded an opportunity for "recovery" of those costs from its own end users.[62/]

If there were any question on this point, it would be answered by the "bill-and-keep savings clause." Section 252(d)(2)(B)(i) expressly authorizes all regulatory "arrangements that afford the mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements)." Bill and keep, as structured in the ICF Plan, entitles carriers to the "mutual recovery of costs" by permitting them to recover those costs through end user charges and, where necessary, universal service. As the legislative history confirms, this clause thus permits "a range of compensation schemes, such as an in-kind exchange of traffic without cash payment (known as bill-and-keep

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61/ *See WorldCom,* 288 F.3d at 434.

62/ *See Local Competition Order* at 16055 ¶ 1112 ("bill-and-keep arrangements that lack *any* provisions for compensation do not provide for recovery of costs") (emphasis added).

arrangements)."[63/] Importantly, the D.C. Circuit has already indicated its support for the same conclusion, noting the "non-trivial likelihood that the Commission has authority to elect" a bill-and-keep regime for section 251(b)(5) traffic under the terms of section 252(d)(2)(B)(i), which the court specifically cited.[64/] Although section 252(d)(2), like the 1996 Act as a whole, "is in many important respects a model of ambiguity or indeed even self-contradiction," Congress "is well aware that the ambiguities it chooses to produce in a statute will be resolved by the implementing agency."[65/] Here, the Commission can and should resolve any ambiguity in this statutory language in favor of an appropriately robust construction of the bill-and-keep savings clause.

Reading section 252(d)(2) to preserve the Commission's discretion in this respect does *not* reduce the pricing standards of section 252(d)(2) to surplusage. That provision is properly understood to require the Commission to choose, for all traffic within the scope of section 251(b)(5), *either* bill and keep, so long as carriers may recover their costs from end users directly (or, where appropriate, from universal service support), *or* a genuinely cost-based CPNP regime. Section 252(d)(2) still precludes *non*-cost-based compensation rules as well as arrangements (common before 1996) under which an *originating* carrier charges a *terminating* (or intermediate) carrier for handing off calls to it. And the Commission's choice of bill and keep rather than a CPNP rule is particularly reasonable now, since eight years of experience have shown that CPNP creates the potential for serious market distortions and that it is too costly (if

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63/ S. REP. NO. 104-230, at 120 (1996).

64/ *See WorldCom*, 288 F.3d at 434.

65/ *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. at 397.

possible at all) to ensure "perfect" cost-based rates. The Commission is thus more than free to revisit and reject its unelaborated assumption in the *Local Competition Order* that Congress meant to lock in those distortions forever through the relevant statutory language.[66/]

In addition, as the D.C. Circuit further suggested in citing the bill-and-keep savings clause as a basis for remanding but not vacating the *ISP Remand Order*, the Commission would not overstep any *jurisdictional* boundaries established in *Iowa Utilities Board* by prescribing bill and keep for all traffic. Under *Iowa Utilities Board*, the Commission has plenary jurisdiction to make very specific methodological decisions about the implementation of section 251, and a choice of bill and keep is precisely such a decision, even though it has the effect of producing specific outcomes in matters of intercarrier compensation. Indeed, the Commission cannot *avoid* prescribing the circumstances in which bill and keep is appropriate if it is to play its statutorily assigned role in interpreting the scope of the bill-and-keep savings clause of section 252(d)(2).

For all of these reasons, sections 252(d)(2) and 251(b)(5) pose no obstacle to an FCC-mandated transition to bill and keep for all traffic. Finally, this transition to bill and keep need not—and, under the ICF Plan, would not—occur in one step. As noted, the Commission has ample authority to avoid sudden industry disruptions by adopting the Plan's proposal for a

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66/ *See Chevron U.S.A., Inc. v. Natural Res. Def. Council*, 467 U.S. 837, 863-64 (1984) (agency is free to change mind on matters of statutory interpretation); *Smiley v. Citibank*, 517 U.S. 735, 742 (1996) ("[C]hange is not invalidating, since the whole point of *Chevron* is to leave the discretion provided by ambiguities of a statute with the implementing agency."); *see also Independent Bankers Ass'n v. Farm Credit Administration*, 164 F.3d 661, 668 (D.C. Cir. 1999).

transitional glide-path from existing intercarrier compensation rates to a comprehensive bill-and-keep regime.[67/]

D. The Commission Has Authority Under Section 251(b)(5) and Section 254 to Raise the SLC and Establish the ICRM and TNRM, Even Though Those Mechanisms Will Cover Some Costs Currently Booked as "Intrastate"

The analysis above establishes that the Commission has authority to prescribe compensation rules ensuring the mutual recovery of carriers' costs. And it confirms that the Commission may adopt a bill-and-keep regime for that purpose. This authority necessarily includes a corollary authority to take the steps needed to ensure that, despite the transition to bill and keep, carriers actually have reasonable opportunities to recover the relevant costs, as section 252(d)(2) requires. The SLC increase and the establishment of the ICRM and TNRM constitute a clearly permissible exercise of that authority. Indeed, the Commission not only has the *authority* to establish mechanisms that provide adequate cost recovery opportunities and universal service funding through SLC increases and new explicit universal service mechanisms, but an *obligation* to do so if it eliminates the existing intercarrier compensation regimes. Precisely because section 252(d)(2) entitles carriers to the opportunity to recover their costs, the Commission could not adopt a transition to bill and keep unless it establishes alternative support mechanisms that, like these, afford carriers that opportunity.

The legacy jurisdictional separations regime, which divides costs and their recovery into distinct interstate and intrastate "jurisdictions," poses no obstacle to the Commission's adoption

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[67/] *See CompTel*, 117 F.3d at 1074-75; *see also CompTel*, 309 F.3d at 15 ("the Commission can justify a policy by reference to the purposes of avoiding disruption pending a broader reform").

of these aspects of the ICF Plan. First, the ICRM and TNRM are just new support mechanisms that, like existing funding programs for rural and non-rural carriers, the Commission may adopt pursuant to its general universal service powers, including its authority to "defin[e] . . . the services that are supported by Federal universal service support mechanisms."[68/] In a range of contexts, the Commission has long provided *federal* funds to cover at least a portion of costs allocated to the *intrastate* side of the cost ledger.[69/] That, for example, is the central and explicit function of the high cost fund for non-rural carriers.[70/] If there were any legal problem with this practice from a jurisdictional separations perspective, which there is not, that same problem would afflict the very foundations of this Commission's existing universal service programs.[71/]

[68/] 47 U.S.C. § 254(a)(2).

[69/] *See* Report and Order, *Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, 8807 ¶ 56 (1997) (including intrastate services among those services supported by federal universal service mechanisms); *TOPUC I*, 183 F.3d at 444 (recognizing that the Commission provides federal universal service funds to support intrastate rate discounts to schools and libraries).

[70/] *See generally* Order on Remand, Further Notice of Proposed Rulemaking, and Memorandum Opinion and Order, *Federal-State Joint Board on Universal Service*, 18 FCC Rcd 22559 (2003); Ninth Report and Order and Eighteenth Order on Reconsideration, *Federal-State Joint Board on Universal Service*, 14 FCC Rcd 20432 (1999) (subsequent history omitted).

[71/] The Commission has never adhered strictly to the most "accurate" apportionment between the two jurisdictions. In the past, the Commission has used the separations process to shift some intrastate costs to the interstate jurisdiction in an effort to provide implicit universal service support from interstate to intrastate services. Even before Congress enacted section 254, the D.C. Circuit upheld these Commission policies on universal service grounds. *See National Ass'n of Regulatory Utility Comm'rs v. FCC*, 737 F.2d 1095, 1105 n.6 (D.C. Cir. 1984) ("*NARUC*") (relying on 47 U.S.C. § 151); *MCI Telecomm. Corp.* v. *FCC*, 750 F.2d 135, 140-41 (D.C. Cir. 1984). All of this underscores that, as the Supreme Court has noted, "extreme nicety is not required" when allocating costs. *Smith v. Illinois Bell Tel. Co.*, 282 U.S. 133, 150 (1930).

For the same reasons, the Commission may lawfully raise the SLC to cover a portion of the costs formerly covered by intrastate access charges as an exercise of its plenary authority to ensure a sustainable and explicit universal service system. It is not possible to replace all of the implicit support embodied in intercarrier compensation with explicit federal support, because doing so would necessitate unsustainable increases to the size of the fund and would impose a tremendous burden on all providers. Nor would that approach be appropriate even if it were possible, because at least some portion of access charges is designed to recover the costs that each LEC actually bears in providing access. Since the Commission cannot unravel, in each instance, which portion is implicit support and which is compensation for the costs of serving a given end user, the only reasonable and sustainable approach is to permit carriers both to increase end user charges via the SLC—up to the caps contemplated by the Plan to the extent competition permits—and, where appropriate, to obtain additional universal service funding through the ICRM/TNRM mechanisms. The SLC increases contemplated by the Plan are thus a key factor in eliminating implicit support and transitioning to a uniform and rational bill-and-keep environment for intercarrier compensation. As discussed in Part II of this brief, moreover, this bill-and-keep approach to cost recovery—unlike existing carrier-to-carrier cost-recovery mechanisms—will permit competition to keep overall end user rates at lower, efficient levels.[72/]

[72/] As the courts have consistently held, the Commission may restructure end user charges, including the SLC, to produce more efficient mechanisms for the recovery of network costs that would otherwise be recovered inefficiently through intercarrier compensation charges. Nothing in section 254(k) is to the contrary. *See, e.g.*, *TOPUC II*, 265 F.3d at 323-24; *Southwestern Bell Tel. Co. v. FCC*, 153 F.3d 523, 558-59 (8th Cir. 1998); *see also NARUC*, 737 F.2d at 1111-15 (holding that the Commission has power to impose flat-rate end user charges).

Finally, the Commission would fully respect the states' own policy interests by adopting federal support programs to ensure adequate recovery of costs on the intrastate side of the cost ledger.[73/] The federal revenue measures contemplated by the ICF Plan are, indeed, the very opposite of an unfunded mandate. Rather than forcing the states to assume a new burden, the Commission would achieve the goals of section 254 by lifting the states' existing obligation to arrange for recovery of certain network costs and by shifting to itself the burden of covering those costs through the combination of the new federal mechanisms and the other sources of revenue provided by the Plan. Finally, nothing in this scheme involves federal intrusion into the states' central prerogative to set their own retail rates.

The federal support programs the Plan creates are fully consistent with the requirements of section 254 of the Act. The ICRM and TNRM are explicit and predictable support

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[73/] To establish a uniform bill-and-keep regime, the Commission need not refer to the Joint Board its decisions to increase the SLC or replace interstate and intrastate switched access revenues. First, adoption of the Plan does not require a referral to a *separations* Joint Board. While changes in the separations rules must be referred to the Joint Board pursuant to 47 U.S.C. § 410(c), the Plan leaves intact the existing separations rules concerning allocation of costs and merely changes the universal service support mechanism to provide for the *recovery* of necessary access revenues through an increased SLC. *See TOPUC II*, 265 F.3d at 324 (distinguishing between cost recovery and cost allocation). Moving cost recovery to the federal SLC does not change the allocation of affected costs, and there is no other reason why federal universal service payments cannot be made to cover costs allocated to the intrastate jurisdiction. For example, section 36.631 of the Commission's rules provides federal universal service support to rural LECs on a sliding scale, based on their average loop costs, to cover a percentage of loop costs that are allocated to the intrastate jurisdiction. *See* Fourteenth Report and Order, *Federal-State Joint Board on Universal Service,* 16 FCC Rcd 11244, 11251-52 ¶ 13 n.19 (2001); *see also Crocket Tel. Co. v. FCC,* 963 F.2d 1564, 1570 (D.C. Cir. 1992). Similarly, section 254(a) does not require the Commission to refer the Plan to a *universal service* Joint Board. Indeed, even if the Plan were interpreted to require a change in the definition of universal service, "[t]he statute requires consultation with the Joint Board for only the initial implementation of § 254's universal service requirement. *See* 47 U.S.C. § 254(a)(1). Any consultation afterwards is permissive." *TOPUC II*, 265 F.3d at 328 n.7.

mechanisms that will promote affordable quality services, including advanced and information services, across the nation. The funds are also equitable and fully portable for all non-CMRS ETCs. While in rural areas, eligibility is restricted to wireline LECs, that limitation is necessary as a transitional safeguard for rural universal service. Non-CMRS ETCs (who generally are all wireline LECs) in high cost rural areas are uniquely dependent on the support access charges now provide, and the shift to bill and keep therefore will be more disruptive to these carriers as compared to others. In order to preserve low-cost, high quality service in rural areas as rural carriers adjust to the new support mechanism, the Plan reserves the new rural fund for non-CMRS ETCs. The Plan thus would exclude CMRS carriers, who are now generally precluded from tariffing and therefore from relying on access charges—and thus will be less affected by their elimination. This limitation is discrete: it applies only to the TNRM; the ICRM is available to all carriers that qualify as ETCs; and the Plan does not affect eligibility for any pre-existing universal support funding. And the Plan further provides that the Commission will re-examine the TNRM eligibility restriction in 2013, when the same transitional concerns may no longer apply. The Commission has ample authority to implement such a discrete, interim eligibility restriction as an appropriate transitional measure.[74/]

E. The Commission Has Full Authority To Adopt the Plan's Contribution Methodology for Universal Service

The Commission's universal service authority derives from two principal sources: (i) its general mandate under section 1 of the Communications Act to "regulat[e] interstate . . . commerce in communication by wire and radio so as to make available, so far as possible, to all

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[74/] *See, e.g., CompTel*, 309 F.3d at 14-15;*CompTel*, 117 F.3d at 1073-75.

the people of the United States . . . a rapid, efficient, nationwide, and world-wide wire and radio communication service with adequate facilities at reasonable charges,"[75/] and (ii) its mandate under section 254 to ensure that "[e]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms . . . to preserve and advance universal service."[76/] The Plan will replace the unsustainable revenue-based contribution mechanisms in effect today with a more durable methodology that assesses contributions on the basis of telephone numbers and connections to a public network. The Commission has full authority under sections 1 and 254 to make this long-overdue change.

First, the Plan's numbers/connections-based contribution methodology fully comports with the Commission's obligation under section 254(d) to require telecommunications carriers to contribute to universal service on "an equitable and nondiscriminatory basis." As discussed in Part I, the current revenue-based contribution methodology is both inequitable and unsustainable because it permits carriers to avoid or minimize their contribution obligations simply by choosing certain technologies, service configurations, or network architectures. The Plan meets the need for a new methodology by distributing the contribution burden broadly among the vast majority of telecommunications providers in a technology-neutral, non-discriminatory, and

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[75/] 47 U.S.C. § 151; *see NARUC*, 737 F.2d at 1108 (recognizing that section 1 contains a "prominen[t] . . . universal service objective"); *Rural Tel. Coalition v. FCC*, 838 F.2d 1307, 1315 (D.C. Cir. 1988) (declaring that "universal service is an important FCC objective" and establishment of a Universal Service Fund is "within the Commission's statutory authority" under section 1).

[76/] 47 U.S.C. § 254(d).

transparent manner.[77/] LECs, traditional long-distance providers, wireless carriers, broadband providers, and VoIP providers that use telephone numbers will all be subject to the contribution obligation because each utilizes telephone numbers or provides connections to a public network (or both). And the Plan abolishes the artificial regulatory distinctions that today cause traditional IXCs to bear a disproportionately large share of the contribution obligation, even as their revenues fall and long distance traffic shifts to other networks.

The Plan's contribution methodology is also "equitable and nondiscriminatory." It is true that, like any reform to the contribution methodology, the Plan's approach would necessarily change the relative contribution burdens among different industry segments. For example, because assessments would no longer rest on revenues, a criterion not found in the Act, traditional IXCs would bear proportionally less of a burden than they do today. But to argue that this change makes the Plan's approach less "equitable" than the current regime incorrectly assumes that the particular burdens imposed by the present interstate-revenue-based scheme are the proper frame of reference. Because contribution obligations are ultimately passed through to consumers, the relevant question is not whether all industry segments share (in some indeterminate sense) exactly the same obligations, but whether competing providers of like

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[77/] The Commission plainly has authority to impose a contribution obligation on all providers that use numbers or connections, even if some of those are not traditional telecommunications carriers. Section 254(d) permissively authorizes the Commission to assess contributions on "[a]ny . . . provider of interstate *telecommunications* . . . if the public interest so requires." 47 U.S.C. § 254(d) (emphasis added). The Commission has already tentatively determined that an information service provider that owns the underlying transmission facilities on which packets are transmitted is providing telecommunications and therefore falls within the scope of the Commission's permissive contribution authority. *Wireline Broadband NPRM* at 3032-33 ¶¶ 24-25 & n.58; Report to Congress, *Federal-State Joint Board on Universal Service*, 13 FCC Rcd 11830, 11532-35 ¶ 66-70 & n.138 (1998).

services face comparable contribution burdens. Under the Plan, they do; under the current system, they do not.

Likewise, the Plan's exclusion of the handful of carriers that do not use numbers or connections is no less consistent with section 254(d)'s "every telecommunications carrier" contribution requirement than the contribution mechanism in place today. Under the Plan, every carrier that serves end users will contribute, since, with commercially insignificant exceptions, such providers will generally require some type of number or connection to reach customers. For example, independent long distance carriers will bear significant (albeit reduced) contribution obligations because, in today's all-distance environment, very few such carriers provide only transport service. Most of them also provide direct connections (such as private or special access lines) and telephone numbers (such as toll-free numbers) to various classes of customers. Further, the ICF contribution methodology itself applies to "every carrier" and does not carve out any technology and service type. *Every* carrier that provides a number or relevant connection is required to contribute a specific amount.[78/] Under the Plan, for example, a cable

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[78/] Section 251(e) answers any questions that might arise about the Commission's authority to impose contribution obligations on providers that use telephone numbers even if they are not found to provide "telecommunications." Section 251(e) empowers the Commission to "administer telecommunications numbering" and grants it "exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States." 47 U.S.C. § 251(e)(1). As the Second Circuit has observed, section 251(e) grants the Commission broad license to use its plenary authority over numbering resources to achieve the basic goals of the Act, such as promoting competition and eliminating unreasonable discrimination. *See New York PSC v. FCC*, 267 F.3d 91, 102-06 (2d Cir. 2001) (Commission may require, over state public utility commission's objection, that all customers dial a ten-digit number to make local calls to ease the introduction of an area code overlay in New York City). Here, the assessment of a small USF fee associated with the provision of one or several NANP numbers would, as noted, advance the fundamental goals of universal service articulated under sections 1 and 254 of the

modem service provider and a DSL provider will be assessed the same number of units for every connection, thus eradicating a disparity that exists under the current funding rules.[79/]

This Plan is also fully consistent with any jurisdictional limits that section 2(b) of the Communications Act places on the Commission's authority.[80/] The Plan provides for a flat-rate assessment on connections that either are wholly interstate or, like special access lines, are used indivisibly for both inter- and intrastate purposes. The Commission has indisputable regulatory jurisdiction over such dual-use facilities.[81/] And because the assessment would not vary with a carrier's intrastate revenues, it would not violate the Fifth Circuit's prohibition on assessments that are based on such revenues.[82/]

F. The Commission Has Full Authority To Implement The Plan's Interconnection Rules

The Plan establishes uniform intercarrier compensation rules with a transition to bill and keep for the termination of *all* traffic delivered to another carrier's "Network Edge" in a LATA.

Act, while at the same time promoting number conservation and efficient number utilization. *See generally* Report and Order and Further Notice of Proposed Rulemaking, *Numbering Resource Optimization*, 15 FCC Rcd 7574, 7578 ¶ 3 (2000) (noting the Commission's concern over "[t]he rapid depletion of numbering resources nationwide and the potential it creates for NANP exhaust").

79/ *See generally* S. REP. NO. 104-23, at 27-28 (1995) (explaining that "every carrier" language is intended to "require[] . . . carriers that concentrate their marketing of services or network capacity to particular market segments, such as high volume business users," to "contribute on an equitable and nondiscriminatory basis to the preservation and advancement of universal service" so as to "prevent distortion of competitive forces").

80/ 47 U.S.C. § 152(b).

81/ *NARUC*, 737 F.2d at 1111-16 (affirming the Commission's authority, even in light of section 2(b), to impose a per-line subscriber line charge, to support universal service, on dual-use equipment).

82/ *TOPUC I*, 183 F.3d at 448.

Under the Plan, CLECs will remain free, pursuant to section 251(c)(2), to interconnect at various physical points on an ILEC's network in addition to these Network Edges (which, in the case of ILECs, will generally be tandem switches). In recognition of the financial implications of each carrier's choice of physical interconnection points, however, CLECs that choose to deliver traffic to an ILEC at physical interconnection points *other* than the ILEC's designated Network Edge will be required to compensate the ILEC for "backhauling" that traffic from the chosen physical interconnection points to the relevant "edge" of the ILEC's network. (By definition under the Plan, upon conversion to bill and keep, the compensation that one carrier owes another when depositing traffic at the latter's Network Edge is zero.)

Of course, if a carrier lacks facilities of its own to deliver traffic to the Network Edge of the terminating carrier, it may lease dedicated capacity for this purpose on the transport facilities of other entities. Moreover, if the carrier is otherwise entitled to lease dedicated transport as an unbundled network element at TELRIC-based rates, nothing in the ICF Plan precludes it from doing so. The Plan simply provides that in the absence of such arrangements, a carrier that chooses to deliver traffic at a point other than the Network Edge of the terminating ILEC has the right to lease dedicated transport circuits from the ILEC as a "special access" service, currently subject to section 201 just and reasonable standards.

Thus, in the absence of independently available rights to lease transport as an unbundled network element from the ILEC pursuant to section 251(c)(3), the Plan provides that ILECs must be compensated when they use their own facilities to "backhaul" traffic to the relevant Network

Edge from a separate point of handoff.[83/] In the context of the comprehensive reform and competitively neutral compensation rules for *all* traffic contemplated by the Plan, the Commission can reasonably construe the category of "transport," for purposes of section 251(b)(5), as limited to the function of moving traffic from the designated Network Edge to the switch serving the called party. Under this construction, this limited backhaul function would fall outside the scope of section 251(b)(5)—and thus the pricing rules of section 252(d)(2)—and under current rules would be subject to the "just and reasonable" standard of section 201. The Commission likewise has authority to rule that an obligation to backhaul traffic under the Network Edge concept embodied in the Plan is not a function of section 251(c)(2) physical "interconnection" to which the pricing standards of section 252(d)(1) apply. The traffic does clearly fall, however, within the Commission's more traditional jurisdiction under section 201 to regulate "mixed use" facilities (since these interconnection arrangements are designed for the exchange of all traffic, whether interstate or intrastate).[84/]

[83/] This backhaul function should be distinguished from the "interconnection transport" function set forth in the Plan. The latter function, and its associated pricing rules, apply only to interconnection arrangements between designated Network Edges.

[84/] Decision and Order, *MTS and WATS Market Structure, Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board*, 4 FCC Rcd 5660, 5660-61 ¶¶ 2, 6-7 (1989) (adopting separations procedures under which mixed use special access lines are assigned to the interstate jurisdiction when interstate traffic accounts for at least ten percent of the traffic carried on those lines); Memorandum Opinion and Order, *GTE Tel. Operating Cos.*, 13 FCC Rcd 22466, 22479-80 ¶¶ 23-25 (1998) (reaffirming that, under the Commission's mixed-use facilities rule, special access facilities are subject to federal regulation when more than ten percent of the traffic is interstate). *See generally Qwest Corp. v. Scott*, 380 F.3d 367 (8th Cir. 2004) (applying the mixed-use facilities rule).

G. The Commission May Require the Provision of Transit and Regulate Rates for Such Transit

The Commission's authority to prescribe transit rates is rooted in sections 201 and 251(a) of the Act. *First*, to the extent transit traffic is interstate, section 201 plainly authorizes the Commission to regulate it and to ensure that the charges are just and reasonable.[85/] Indeed, the Commission has for years relied on its section 201 authority to require that LECs provide transit for traffic between an IXC and independent LECs, CMRS carriers, and others.[86/] *Second*, section 251(a), which requires all telecommunications carriers to "interconnect directly or indirectly" with all other telecommunications carrier networks, authorizes the Commission to regulate *all* transit traffic, including intrastate traffic.[87/] Section 251(a) requires interconnection of all carriers, but expressly gives carriers the option of relying on *indirect* interconnection to accomplish that end. Direct interconnection between each carrier and every other would be neither efficient nor feasible. *Indirect* interconnection—*i.e.*, transiting—therefore is essential to ensure the nationwide interconnectedness Congress envisioned.

As the Commission has observed, the "fundamental purpose" of section 251(a) is to "promot[e] the interconnection of all telecommunications networks by ensuring that incumbent

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85/ 47 U.S.C. § 201(a) (authorizing the Commission to require "through routes" between and among carriers for the transmission of traffic); 47 U.S.C. § 201(b) (requiring rates and practices to be just and reasonable).

86/ *E.g.*, Memorandum Opinion and Order, *Elkhart Tel. Co. v. SWBT*, 11 FCC Rcd 1051, 1056-57 ¶¶ 34, 37 (1995); *see, e.g.*, Report and Order, *MTS and WATS Market Structure Phase III*, 100 F.C.C.2d 860 (1985).

87/ 47 U.S.C. § 251(a)(1).

LECs are not the only carriers that are able to interconnect efficiently with other carriers."[88] *Indirect* interconnection thus plainly encompasses the provision by the "middle" carrier(s) of transit between the two indirectly interconnected carriers. Put another way, there must be an open pipe between two indirectly interconnected carriers in order for there to be indirect interconnection *at all*. And, in fact, the Commission has repeatedly recognized that transit *is* that open pipe and thus is a fundamental component of indirect interconnection.[89]

Regulation of transiting pursuant to section 251(a) is perfectly consistent with the Commission's previous rulings that section 251(a) authorizes the Commission only to regulate the "physical linking of two networks."[90] In one case, for example, the Commission determined

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[88] Fourth Report and Order, *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 16 FCC Rcd 15435, 15478 ¶ 84 (2001) ("*Collocation Remand Order"), aff'd sub nom. Verizon Telephone Cos. V. FCC,* 292 F.3d 903 (D.C. Cir. 2002); *see also Local Competition Order* at 15991 ¶ 997 (noting that "the [section 251] duty to interconnect directly or indirectly is central to the 1996 Act and achieves important policy objectives.").

[89] Memorandum Opinion and Order, *Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc., and for Expedited Arbitration et al.*, 17 FCC Rcd 27039, 27101-02 ¶ 118 (2002) (finding that transit was key to WorldCom's "ability to interconnect indirectly with other carriers" and serve the "interests of all end users in connectivity to the public switched network."); Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 18 FCC Rcd 16978, 17319-20 ¶ 534 n.1640 (2003) (subsequent history omitted) (noting that "transiting" is "a means of indirectly interconnecting with other . . . carriers for the purpose of terminating local and intraLATA traffic."); *Collocation Remand Order* at 15477-78 ¶¶ 83-84 (finding that the Commission has authority to require LECs to provision a cross connection between a CLEC and a competitive transport provider because that connection is essential to the indirect interconnection required under section 251(a)).

[90] Memorandum Opinion and Order, *Total Telecomm. Servs. v. AT&T Corp.*, 16 FCC Rcd 5726, 5736-37 ¶ 23 (*Total Telecom Order*), *aff'd in relevant part, rev'd in part, AT&T v, FCC,* 317 F.3d 227 (D.C. Cir. 2003) (*Atlas Appeal).* In the *Total Telecom Order*, the Commission

that 251(a) did not authorize it to require AT&T to order a CLEC's terminating access service. But, as the D.C. Circuit found in affirming the Commission's decision, the distinction the Commission drew between section 251(a) and the Act's "transport and termination" requirement does not spare any carrier from its section 251(a) obligation "to establish a physical connection with" other carriers.[91/] As the court pointed out, despite AT&T's refusal in that case to send traffic to the plaintiff carrier—which was demanding extremely high terminating access charges—the two carriers were in fact interconnected, via indirect transit-based links provided by Southwestern Bell.[92/]

Total Telecom thus supports the Commission's section 251(a) authority over transiting. The independent connections of AT&T and the plaintiffs to Southwestern Bell could satisfy section 251(a)'s indirect interconnection requirement only if Southwestern Bell in fact provided a link between the two carriers. The mere fact that two carriers connect with a third carrier may establish the *possibility* of interconnection, but section 251(a) requires actual interconnection, and that is accomplished only where the middle link—transit—is at least offered by that third carrier. Thus, the D.C. Circuit's decision should be read to stand for the proposition that the two indirectly connected carriers cannot be forced, under section 251(a), to *utilize* their interconnection by actually sending traffic to one another. But it cannot sensibly be read to foreclose the Commission's authority to regulate—on just, reasonable, and non-discriminatory

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relied on its earlier determination in the *Local Competition Order* at 15590 ¶ 176 ("We conclude that the term 'interconnection' under section 251(c)(2) refers only to the physical linking of two networks for the mutual exchange of traffic.").

91/ *Atlas Appeal*, 317 F.3d at 235.

92/ *Id.*

terms under section 201—the provision of the essential middle link for indirect interconnection, for that interpretation would gut section 251(a)'s indirect interconnection provision of all meaning.

CONCLUSION

The Commission can and should adopt the ICF Plan as an inseverable whole.

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Appendix A

INTERCARRIER COMPENSATION AND UNIVERSAL SERVICE REFORM PLAN

Developed by

THE INTERCARRIER COMPENSATION FORUM

October 5, 2004

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INTERCARRIER COMPENSATION AND UNIVERSAL SERVICE REFORM PLAN

I. Introduction and Overview

This document sets forth an eight-year plan for intercarrier compensation reform developed by the Intercarrier Compensation Forum ("ICF"), a broad coalition with members representing a diverse cross section of telecommunications industry participants. It represents the ICF's effort to develop a single consensus proposal for reforming intercarrier compensation and universal service issues in a manner that will facilitate efficient competition, promote the deployment of new technologies, preserve and enhance universal service, and advance consumer interests. The Plan is designed to further the following specific public policy goals:

- Encourage timely deployment of new network technologies and capabilities by minimizing or eliminating regulatory-induced arbitrages;
- Preserve and enhance universal telephone service in all parts of the U.S.;
- Encourage all carriers to innovate and offer new services and packages;
- Reduce the cost of regulation by minimizing carrier disputes over interconnection and compensation arrangements; and
- Allow consumers and carriers to adjust expectations and business plans by implementing new intercarrier compensation and universal service structures over a reasonable transition period.

The plan seeks, at the end of its initial three-year transition, to unify the various mechanisms governing service provider traffic exchange and, where necessary, compensation, that today are applicable to all types of traffic carried on the PSTN, including local traffic, ISP-bound traffic, inter- and intra-MTA CMRS traffic, paging traffic, and traffic with one end originating or terminating on an IP network, and interstate and intrastate interexchange traffic.[1] Of necessity, this system would apply to all carriers, although the plan expressly recognizes some of the unique difficulties of serving rural and high cost areas.

Under this plan, all current forms of intercarrier compensation for switched services will be replaced by five categories: (1) a bill and keep regime in which most carriers

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[1] The Plan currently resolves VOIP issues by creating an end state, at the end of the transition period, in which the compensation regimes applicable to circuit switched and IP traffic are harmonized. Fundamentally, therefore, the remaining open aspects of this issue arise during the transition. Thus, the Plan, in its present form, does not resolve the issue of what compensation, if any, should apply during the transition to a call with one circuit-switched end and one packet-switched end.

ultimately will recover origination, termination and transport within their networks and the cost of fulfilling their interconnection obligations from their end user customers and, if necessary, new federal support mechanisms; (2) tandem transit service which may be used to allow a carrier to interconnect indirectly with another carrier via a third-party carrier; (3) interconnection transport service that will provide a direct connection between two interconnecting carriers; (4) a transitory uniform termination charge applicable to the termination of all switched traffic; and (5) for certain, primarily rural carriers, a continuing revenue stream from transport services used to terminate switched traffic to end users served by their networks. This Plan for intercarrier compensation is not applicable to private line services or interstate or intrastate special access services or traffic exchanged directly between IP networks through public or private peering or IP transit arrangements. This new method of intercarrier compensation is mandatory for all carriers and will be implemented in a multi-step process, to begin July 1, 2005.[2]

The new federal support mechanisms this Plan creates ensure that, during and after the transition to bill-and-keep, end user rates remain affordable and reasonably comparable between urban areas and rural, insular, and high cost areas. The reduction in intercarrier compensation revenues will generally, under the mechanism described in this plan, be recovered from a combination of end user charges and support from these new federal mechanisms. Lifeline support will increase automatically to offset rate changes for low-income consumers receiving Lifeline service.

Finally, to ensure that this additional federal support can be raised without further destabilizing the existing universal service contribution mechanisms, this Plan proposes reform of the universal service contribution mechanism as described in Section V, below.

This Plan represents an integrated proposal by the ICF participants for holistic and comprehensive reform of intercarrier compensation and universal service issues that would compromise and settle areas of longstanding dispute for a substantial period of time. Because of the complexity and interdependence of the various facets of the Plan, the ICF participants view it as a unified proposal that the FCC should adopt without modification. The ICF would oppose any attempt to adopt individual parts of this Plan while modifying, rejecting, or deferring others.

II. A Uniform Mechanism for Intercarrier Traffic Exchanges

When all transitions under this plan are completed, the following default rules will exist to govern the interconnection between and compensation among carriers' exchanging traffic. These rules are default rules only, and carriers may agree to alternative arrangements as part of their interconnection negotiations. In general, as a default, traffic will be exchanged on a "bill-and-keep" basis at the default "Edge," as defined herein.

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[2] All date references in this Plan assume that the rules implementing this Plan take effect on July 1, 2005.

The interconnection transport responsibility for delivering traffic directly between two interconnecting carriers' networks will be as detailed further below in Section II.A.3 and II.B.

Under this plan, carriers can fulfill their interconnection obligations by connecting either directly or indirectly. Carriers providing transit as of June 30, 2007 will be required to continue to do so through the life of the plan as outlined below in Section II.A.5.

This plan addresses the exchange of all types of traffic carried on the PSTN, including local traffic, ISP-bound traffic, inter and intra MTA CMRS traffic, paging traffic, traffic with one end originating or terminating on the IP networks and interstate and intrastate interexchange traffic ("PSTN Traffic").

Under the default rules established herein, each carrier will associate relevant call routing information with the appropriate Edge in each LATA. Relevant call routing information includes, for example, NPA-NXX, LRN, CIC, CAC, etc. The Commission shall promulgate rules establishing each carrier's Edges, as defined herein, as the default technically-feasible points within that carrier's network for interconnection for the transmission and routing of telephone exchange service and exchange access. As a consequence, the list of technically feasible points of interconnection for purposes of section 251(c)(2) will be contingent on the ability of carriers to fulfill their interconnection transport obligations under the ICF plan. A carrier with responsibility for interconnection transport must route traffic between its network and the appropriate Edge on the interconnecting carrier's network.[3] To effectuate this obligation, carriers will promptly open traffic routing codes in their switches.

A. Default Rules for Intercarrier Traffic Exchange and Compensation

1. Bill-and-Keep Within a Carrier's Network

Beginning with the start of Step 3, intra-network transport will be provided on a bill-and-keep basis, except when provided by CRTCs as described further below. Beginning with the start of Step 4, there will be a uniform rate for the termination of all traffic, the Uniform Termination Charge, as described in Section III.C.3.a. Beginning at the start of Step 7, termination of traffic will be on a bill-and-keep basis. This does not imply that carriers will not compensate each other for the provision of interconnection transport and Tandem Transit Service, which are described further below.

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[3] This recognizes that a carrier may specify that certain types of traffic, such as, for example, 911 or operator services, must be routed to particular Edges via segregated trunk groups as needed for that purpose.

2. Edges

Each carrier will establish an "Edge" or "Edges" as the point or points at which the carrier will receive traffic for routing within its network. Other carriers must be allowed to physically interconnect at those Edges.[4] Edges are subject to numerical limitations and definitional limitations. Each carrier must establish at least one Edge in each LATA in which it has a need to receive traffic from other carriers. Any Edge must be a functional network location under Section II.A.2.a., below, meet the physical interconnection requirement under Section II.A.2.b., below, and must accept all kinds of PSTN Traffic. A carrier may designate another carrier's facilities as its Edge, with the agreement of the owner of that facility. For areas within or associated with LATAs, these limitations are as follows. First, no carrier may designate more Edges in a LATA than the total number of ILEC Access Tandems in that LATA as of July 1, 2005.[5] No carrier may establish more than one Edge in a single geographic location (*e.g.*, a building). Second, no carrier may designate more Edges in a LATA than the total number of network-defined Edges that the carrier has in the LATA. In effect, these rules limit a carrier's Edges to the lower of the number of Access Tandems or the number of the carrier's network-defined Edges in the LATA. Collectively, these restrictions both

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[4] Section 251(c)(2) establishes a discrete ILEC obligation to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network for the transmission and routing of telephone exchange and exchange access at any technically feasible point within the carrier's network. Section 251(c)(2) requires ILECs to allow other telecommunications carriers to designate where they want their facilities (which include self-provided or leased facilities) to be physically linked to the ILEC network, *i.e.*, the technically feasible point in the ILEC network where the two networks physically touch. Conversely, the ICF Plan establishes the network bearing the financial obligation for the transport required to connect the two networks and designates the network location to which traffic must be delivered. If a carrier elects to physically interconnect its facilities with an ILEC's network at a location other than the ILEC's Edge by asserting its rights under section 251(c)(2), the ICF Plan's default rules apply regardless. Moreover, when a carrier (other than an ILEC) operating a Non-Hierarchical Network elects to invoke section 251(c)(2) to interconnect its facilities with an ILEC operating a Hierarchical Network at a location other than the ILEC's designated Edge, the ILEC is not required to offer the other carrier its discounted interstate dedicated switched transport to reach the ILEC's Edge. Carriers may purchase ILEC services including expanded interconnection to special access to complete the path between the point at which they have interconnected with the ILEC's network and the ILEC's Edge. Unbundled dedicated transport, where available, may also be used to complete this path.

[5] If there is more than one ILEC in a LATA, all the ILEC Access Tandems in the LATA will be summed to establish this limit.

prevent a carrier from proliferating Edges in order to shift transport responsibility from itself to other carriers, and ensure that an interconnecting carrier can choose direct interconnection.

With respect to states without LATAs,[6] each carrier must establish at least one Edge in each local calling area in which it exchanges traffic with other carriers. Edges will be limited to the number of ILEC Local Exchange Routing Guide (LERG) listed end-offices for each calling area, irrespective of any other provision herein.

Default Edge locations will be designated and fixed as of January 1, 2006. Prior to that date, carriers will adhere to pre-existing rules and standards for network changes. After that date, carriers will adhere to the Edge change rules as specified below. A carrier entering a LATA to provide service will designate and fix its Edges at the time when the need first arises to receive traffic within a LATA (or, for a non-LATA state, local calling area). A carrier shall publish a list of its Edges and associated routing information in a public manner, such as on a website.[7]

There would be a mandatory notice period of 12 months for any carrier to move an Edge after the date on which Edge locations are designated if such change will necessitate changes in physical interconnection arrangements for directly interconnecting carriers. The notice requirement will be 6 months for establishing an Edge in a LATA for the first time, or for establishing a new Edge that does not involve redirection of traffic. For changes to Edge locations that result only in logical re-routing of traffic (*i.e.*, revision to a routing table or the establishment or augmentation of a trunk group), the carrier shall provide 3 months' advance notice. Carriers moving an Edge would be required to provide notice to all directly interconnecting carriers, to all known interconnecting Tandem Transit Providers, and to post relevant information as part of the publication requirement. After July 1, 2007, a carrier moving its Edge during the notice period would bear the responsibility for transporting traffic from the old Edge to the new Edge. After completion of the notice period, the normal default rules apply. A carrier would be free to change an Edge at any time with the consent of carriers interconnecting directly at that Edge.

Carriers that operate Hierarchical Networks (as defined in II.A.3.a.) will not necessarily be limited to Access Tandems for their Edges. If, under the numerical and definitional limits, a Hierarchical Carrier is entitled to additional Edges, that carrier may maintain such Edges (such as a qualifying Trunking Media Gateway, as defined in II.A.2.a.(5),

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[6] These are only states without LATAs, and do not include single LATA states. Alaska is the only state without a LATA. Unless otherwise specified herein, in a state without LATAs, the term "LATA" throughout this Plan shall be deemed to refer to a local calling area."

[7] Interconnecting carriers must honor routing designations.

below). However, a Hierarchical Carrier may not declare a local tandem or End Office subtending its own Access Tandem to be an Edge. Such carriers would also be able, consistent with the Edge change rules, to substitute a new Edge such as a Trunking Media Gateway for an existing Access Tandem.

a. Functional Network Locations

The following are "Functional Network Locations":

(1) Access Tandem

An "Access Tandem" is a building location with a carrier switch that establishes trunk-to-trunk connections between designated End Office switches and long distance service providers for the routing of interstate and intrastate interexchange traffic. Access Tandems have point codes and are listed in the LERG or any successor or alternate guide with a unique CLLI Code and the designated End Office switches they serve for routing purposes. Only the use of legitimate Access Tandems will qualify a carrier's network as "Hierarchical." To be declared an Edge after January 1, 2006, an Access Tandem must be subtended by at least three End Offices

(2) End Office (for wireline carriers)

An "End Office" (for wireline carriers) is a building location with a carrier switch to which multiple unaffiliated telephone service subscribers access lines are connected. End Offices provide dial tone to the subscriber, perform call origination and call termination functions and establish line-to-line, line-to-trunk, and trunk-to-line connections for the transmission and routing of local and toll traffic. End Offices represent the last switch at which the interconnecting carrier can establish trunking for the purpose of exchanging traffic. (Remotes that are not capable of establishing trunking with other carriers for the exchange of traffic therefore cannot be Edges.) End Offices are listed in the LERG or any successor or alternate guide with the NPA-NXX Codes, and a Location Routing Number (LRN) assigned to them. End Offices that use SS-7 signaling must have an associated point code.

(3) MSC (for CMRS providers)

An "MSC" (for CMRS providers) is a building location with a carrier switch to which multiple unaffiliated CMRS (including paging) subscribers are provided network connectivity via mobile base stations. The MSC is the last switch at which another carrier can establish trunking for the purpose of exchanging traffic with CMRS subscribers. MSCs, other than those used solely to provide one-way paging services, are listed in the LERG or any successor or alternate guide with the NPA-NXX Codes, and a LRN assigned to them.

(4) Point of Presence (POP)

A carrier location will be deemed to be a POP if it meets either of the two following definitions:

(a) Building space owned or controlled by the carrier, its agent or designee where the carrier has located transmission facilities used to virtually extend switching capacity or Trunking Media Gateway functionality from one LATA to another LATA and is listed in the LERG or any successor or alternate guide with the NPA-NXX Codes, and a LRN. A carrier may associate only one POP per LATA for each remotely-deployed switch but, if this limitation would result in that carrier having only one Edge in a LATA, the carrier may associate two POPs in that LATA with its remotely-deployed switch; or

(b) Building space owned or controlled by the carrier, its agent or designee where the carrier has located transmission facilities and to which the ILEC is providing switched access services as of the date of adoption of the Commission order establishing comprehensive rules to implement this Plan.

(5) Trunking Media Gateway

A "Trunking Media Gateway" is a building location with a device or system that converts TDM messages to packet messages and packet messages to TDM messages through protocol conversion. A Trunking Media Gateway allows communications between a TDM network and an IP network. For purposes of the ICF proposal a Trunking Media Gateway must meet the following criteria:

(a) It provides access to multiple unaffiliated telephone service subscribers; and

(b) Unaffiliated carriers may establish TDM trunks between it and their switches; and

(c) It is listed in the LERG or any successor or alternate guide with the NPA-NXX Codes, and a LRN or is serving as an IXC ingress/egress point.

b. Physical Interconnection

Any Edge owner, itself or through its agent or designee, must permit a requesting carrier to interconnect at its Edge, solely for the purpose of direct or indirect interconnection, through the requesting carrier's choice of:

(1) Fiber Optic Cable Termination (*i.e.*, the termination of fiber optic strands to a digital cross-connect system (DCS) or comparable device establishing optical continuity with the other carrier), provided that the requesting carrier also offers the Edge owner interconnection via fiber optic cable termination and further provided that the two carriers collectively exchange volumes of traffic that require at least 673 voice grade trunks, *i.e.*, one more than a DS-3.[8] This option may not be used where the requesting carrier's forecasted needs can be handled through existing spare capacity controlled by the requesting carrier; and

(2) Electrical Cable Termination , provided that the requesting carrier also offers the Edge owner interconnection via electrical cable termination and further provided that the two carriers collectively exchange volumes of traffic that do not require more than 672 voice grade trunks[9]; and

(3) The Edge owner's choice of at least two of the four methods of physical network interconnection specified below:

(a) Physical collocation or virtual collocation – the terms, conditions and prices shall be no less favorable than collocation offered by the ILEC in that serving area;

(b) Mid-span fiber meet – If the Edge owner offers mid-span fiber meet, the Edge owner cannot assess any charges for its facilities between its Edge and the meet point, and if the owner chooses a meet point that is further from the Edge owner than the requesting carrier, it must compensate the requesting carrier based on the additional mileage;

(c) Leased transport provided by the Edge owner - the terms, conditions and prices shall be no less favorable to the requesting carrier than the interstate switched dedicated transport offered by the ILEC in that serving area, and in no case higher than any rate that the incumbent may be required to charge for this functionality;

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[8] An interconnecting carrier is not required to obtain collocation to implement Fiber Optic Cable Termination.

[9] An interconnecting carrier is not required to obtain collocation to implement Electrical Cable Termination.

(d) Leased transport provided by an unaffiliated carrier - the terms, conditions and prices shall be no less favorable to the requesting carrier than the interstate switched dedicated transport offered by the ILEC in that serving area, and in no case higher than any rate that the incumbent may be required to charge for this functionality.

An ILEC other than a Covered Rural Telephone Company whose exemption under Section 251(f)(1) has not been terminated with respect to collocation obligations must always make available interconnection through physical and virtual collocation. A Covered Rural Telephone Company must always make available a mid-span fiber meet.

Carriers having any interconnection trunk groups that are chronically or persistently underutilized (as measured by the following standard) may be required to reduce the trunks in such group to achieve more optimal utilization. If a certain trunk group is at 65 percent or less capacity during the time-consistent busy hour for three consecutive months, then an interconnecting carrier may request to and the other carrier will reduce the trunk group to the point that it is at 75 percent capacity in the busy hour. If a carrier can document that increases in traffic volume will increase trunk group utilization in the busy hour to 75 percent within nine months, it shall not be required to reduce the trunk group.[10]

All carriers are responsible for transmitting the calling party number, except in cases where such number is not required to be transmitted under 47 C.F.R. § 64.1601(d). In addition, when a call is originated using a PRI ISDN line, the transmitting party shall provide the number of the calling party, if available, and not the number assigned to the PRI ISDN line used for interconnection, except where doing so would cause problems for 911/E911 systems.

3. Determination of the Responsibility for Interconnection Transport for Carriers Other than Covered Rural Telephone Companies

a. Categorization of Networks

A Hierarchical Network is one (other than a Rural Network, as defined below) in which End Offices subtend an Access Tandem owned by the owner of such End Offices. As

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[10] All interconnecting carriers have a vested interest in maintaining the efficiency and reliability of trunking. The ICF will explore ways to assure meaningful participation in the management and engineering of trunk groups by a party that does not have control of such trunk groups but has traffic for which it bears financial responsibility on such trunk groups.

used in this Plan, the term "Hierarchical Carrier" shall mean a carrier to the extent it is engaged in the operation of a Hierarchical Network.

A Rural Network is one operated by a Covered Rural Telephone Company ("CRTC"), as defined in Section II.B.1., below.

A Non-Hierarchical Network is one that is neither a Hierarchical Network nor a Rural Network. As used in this Plan, the term "Non-Hierarchical Carrier" shall mean a carrier to the extent it is engaged in the operation of a Non-Hierarchical Network.

Non-facilities-based carriers will stand in the shoes of their underlying network providers with respect to Edge responsibilities and network categorization.[11] UNE-platform carriers will be responsible for compensating the underlying network provider for a pro-rata share of network interconnection transport costs incurred by that provider. UNE-platform carriers will also be responsible for their share of any charges incurred by the underlying network provider for Tandem Transit Service, as defined in Section II.C., below.

b. Interconnection Transport Between Non-Hierarchical Networks, and Between Two Hierarchical Networks

For interconnection between two Non-Hierarchical Networks, or between two Hierarchical Networks, each carrier has the responsibility to transport traffic to the Edge designated by the destination network to reach the terminating end user. A carrier may fulfill this responsibility directly or indirectly according to the terms of this Plan. Neither carrier shall charge the other for multiplexing or de-multiplexing of interconnection transport trunks used for the exchange of traffic between the two carriers.

c. Interconnection between a Hierarchical Network and a Non-Hierarchical Network

(1) In General

For direct, physical interconnection of a Non-Hierarchical Network with a Hierarchical Network, the carriers will establish interconnection transport (*i.e.*, facilities and associated trunking between two networks used for the exchange of traffic between two carriers) between the Edge of the Hierarchical Network serving the Hierarchical Network's end user and the appropriate Edge(s) of the interconnecting network. The Non-Hierarchical Carrier is responsible for establishing interconnection transport to carry traffic in both directions between the two networks. To fulfill that responsibility, the

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[11] These Edges will not count toward the maximum allowed to the non-facilities-based carrier to the extent that it also operates using its own facilities in that LATA (and thus maintains its own Edges).

Non-Hierarchical Network will choose to self-provide or to use transport provided by the Hierarchical Network or some third party.

The Hierarchical Network will offer to provide interconnection transport between its Edges and the other carrier's Edges at a rate that is 50 percent of the appropriate ILEC interstate switched dedicated transport rate[12] for non-mileage-based charges (including entrance facilities), and 50 percent of that area's ILEC's interstate switched dedicated transport access rate (fixed as of June 30, 2005) for mileage-based charges for the first 40 miles for a route (limited to within the Hierarchical Network carrier's serving area), and 100 percent for additional mileage.[13] Carriers will be eligible for 50 percent off whatever term, volume, or other optional pricing plan applies. Moreover, interconnection agreement terms and conditions cannot modify terms and conditions of interstate switched dedicated transport tariffs and commitments hereunder for interconnection transport. The Non-Hierarchical Carrier will also have the option of self-providing or leasing the interconnection transport from a party other than the Hierarchical Network (in which case the Hierarchical Network is not required to share the financial responsibility).

Neither carrier shall charge the other for multiplexing or de-multiplexing of interconnection transport trunks established by the Non-Hierarchical Carrier and used for the exchange of traffic between the two carriers. If the trunk is used for other purposes, such as for interconnecting with UNEs provided by the Hierarchical Carrier or providing special access services, the Hierarchical Carrier shall be entitled to charge the Non-Hierarchical Carrier a pro-rata share of the multiplexing or de-multiplexing charge, as

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[12] Where a carrier has ordered special access circuits that are used for switched network interconnection between its Edge and an Access Tandem or End Office switch of the Hierarchical Carrier on or before June 30, 2007, such carrier shall be entitled to have such circuits re-rated, effective July 1, 2007, under the terms of this Plan without requiring physical rearrangement, including, if applicable, the 50 percent discount. Thereafter, to receive the 50 percent discount, a carrier must order interconnection transport circuits. Notwithstanding the limitation above, for interconnection transport provided using network configurations that are not available under the switched dedicated transport tariff, as of June 30, 2005, the special access rates for such configurations will be used in determining the appropriate rate. References throughout this document to the switched dedicated transport rate for Tandem Transit Service and interconnection transport include applicable special access rates under that circumstance.

[13] The switched dedicated access rates in effect on June 30, 2005 shall be used, provided that the ILEC has made no changes to those rates in the 90-day period leading up to June 30, 2005. If changes to any such rate have been made during that period, then the simple average of the rate in effect on each day during such 90-day period shall be used instead.

appropriate, based on the portion of the trunk capacity used for purposes other than for interconnection transport.

To the extent that traffic associated with a particular subtending End Office and a Non-Hierarchical Carrier's Edge exceeds a busy-hour threshold of 1215 CCS (hundred call seconds) total two-way traffic between two switch points measured in time-consistent busy hour each month for three consecutive months (based on Neal-Wilkinson tables, 1 percent blockage, low day-to-day variation with a peakedness factor of 1.0), then carriers will segregate that traffic onto a dedicated trunk group.[14]

(2) Facilities Beyond the Tandem

Either carrier may discontinue use of facilities provided by the other carrier for direct interconnection between a Non-Hierarchical Carrier's Edge and an End Office (or local tandem or other network location beyond the Access Tandem) of the Hierarchical Carrier.

Carriers are free mutually to agree to compensation arrangements for use of such facilities. If the facilities remain in place, but no other compensation agreement is reached, then the following default provisions shall apply:

If a Non-Hierarchical Carrier has leased dedicated switched transport from the Hierarchical Carrier prior to the start of Step 3 of the Plan and these facilities are used to provide direct interconnection between the Non-Hierarchical Carrier's Edge and an End Office (or local tandem or other network location beyond the Access Tandem) of the Hierarchical Carrier, the Non-Hierarchical Carrier will reimburse the Hierarchical Carrier for the continued use of these facilities starting at Step 3 of the Plan. Compensation will be based on the appropriate interconnection transport rate measured from the Non-Hierarchical Carrier's Edge to the Hierarchical Carrier's Edge serving that End Office (or local tandem or other network location beyond the Access Tandem).[15]

As of July 1, 2006, Non-Hierarchical Carriers using a facility functionally equivalent to an ILEC's switched dedicated transport not provided by the Hierarchical Carrier shall provide the Hierarchical Carrier with notice of that use so that the Hierarchical Carrier may provision its own network transport if it elects to do so. If a Non-Hierarchical Carrier has constructed or acquired (including on a lease or IRU basis) its own transmission facilities for the exchange of traffic prior to the start of Step 3 of the Plan and the Hierarchical Carrier uses those facilities in lieu of its own network transport

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[14] This standard shall also apply to a CRTC that designates an Access Tandem as an Edge.

[15] This would include the portion of any dedicated facilities used for interconnection transport that are shared between switched and special access use.

between its Edge and its End Office (or local tandem or other network location beyond the Access Tandem), the Non-Hierarchical Carrier shall be entitled to compensation from the Hierarchical Carrier starting at Step 3 of the Plan to the extent the Hierarchical Carrier uses such facility to meet its Edge responsibilities with respect to its end users. Compensation will be based on the Hierarchical Carrier's tariffed rate for switched dedicated transport, not including entrance facilities, measured between the Access Tandem and the End Office (or local tandem or other network location beyond the Access Tandem) and the actual circuit capacity usage of the facility required for the Hierarchical Carrier to meet its Edge responsibilities with respect to its end users (*i.e.*, reflecting circuits needed to accommodate switched voice traffic to/from end users subtending the End Office).

If either carrier decides not to continue use of such facilities, network rearrangements necessitated as a result of this decision shall be scheduled and performed according to the carriers' normal business practices. (Normal business practices means that carries may not unilaterally accord special priority to these rearrangements, as compared to other rearrangements).

4. Interconnection between Signaling Networks.

Where carriers directly interconnect to each other, to effectuate interconnection under this plan, they must also separately implement interconnection of their SS7 networks.[16] This is because SS7 signaling is carried over separate facilities. Signaling Transfer Points,[17] or STPs, are packet switch devices used to switch and route SS7 signaling traffic between signaling points (*i.e.* switches or equivalent devices) and Signaling Points of Interconnection ("Signaling POIs") are the locations where carriers interconnect for the exchange of signaling messages between their STPs.

a. SS7 Interconnection Between Carriers and Providers that Own STPs ("SS7 Providers") and Carriers that Do Not Own STPs

Carriers that do not own STPs connect their signaling points (switches) to SS7 Providers' STPs via A-links to gain access to SS7 functions. The provision of A-links and the transport of SS7 messages exchanged across signaling links are signaling services and carriers that order such services, including CRTCs, are responsible for the payment of such services to the SS7 Providers. In addition, carriers that do not own STPs will

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[16] Carriers that interconnect via Feature Group-C trunks are not required to interconnect SS7 networks.

[17] In this document, any reference to an STP should be construed as meaning an STP pair.

designate the STPs to which other carriers will exchange SS7 messages for each of its signaling points.

If a carrier contracts for SS7 functionality from an SS7 Provider, such carrier will be solely responsible for charges associated with such functions. The remaining provisions of this section address interconnection between such carrier's SS7 Provider and other SS7 Providers, including those that serve other carriers interconnecting with such carrier.

b. SS7 interconnection between SS7 Providers

SS7 Providers are free to negotiate any form of SS7 signaling network interconnection and associated financial responsibility they choose. If they cannot agree, SS7 Providers will implement the default SS7 network interconnection architecture described herein. Under the default architecture, bill and keep would apply for STP ports and transport of call set up messages between the Signaling POI and the signaling point.

SS7 interconnection will be configured such that all SS7 messages use the same path in both directions (*i.e.*, asymmetrical routing of SS7 messages is not a permissible default arrangement).

(1) Default D-link Quad Sets

Under the Plan, each SS7 Provider must designate to another SS7 Provider requesting SS7 interconnection one or more STP pairs to which the other SS7 Provider will interconnect as described below. A SS7 Provider may designate a different number and location of STP pairs to different SS7 Providers to achieve efficiency and reliability.[18] The designated STPs may be the SS7 Provider's own STPs or device providing similar functionality, or, if the SS7 Provider has obtained some SS7 functionality from another SS7 Provider, it will designate the STPs or equivalent devices owned by the other SS7 Provider. If a carrier contracts for SS7 functionality from a third-party SS7 Provider, such carrier will be solely responsible for charges associated with such functions.

SS7 Providers will establish the minimum number of D-link quad sets required to provide connectivity, within the SS7 engineering guidelines, between the STP pairs designated by each carrier. For each D-link quad set, each SS7 Provider will provide on a bill and keep basis the interconnection transport for two D links between its STP pair and two Signaling POIs designated by the other SS7 Provider.[19]

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[18] A carrier may not unreasonably withhold agreement to a substantially similar SS7 interconnection arrangement it has with another carrier.

[19] In lieu of each SS7 Provide supplying two of the four D-links in a quad set, SS7 Providers may agree to share costs of the entire D-link quad set on a 50:50 basis.

(2) Default Signaling POIs

In the same manner that two SS7 Providers each designate an STP pair to comprise a D link quad set, two SS7 Providers each will designate two Signaling POIs, each of which is associated with a certain STP.

A Hierarchical SS7 Provider is a Hierarchical Network that owns and operates its own STPs.[20] A CRTC SS7 Provider is a CRTC that owns and operates its own STPs. A Non-Hierarchical SS7 Provider is an SS7 Provider that is neither a Hierarchical SS7 Provider nor a CRTC SS7 Provider, and includes non-carrier SS7 Providers.

For SS7 interconnection between (1) two like networks (*i.e.*, between two Hierarchical Networks or two Non-Hierarchical Networks or two CRTCs) and (2) a Hierarchical Network and a CRTC, each SS7 Provider will designate the location of the Signaling POIs associated with its STPs without restriction.

For SS7 interconnection between a Non-Hierarchical Network and a Hierarchical Network, the Non-Hierarchical Network will designate the location of its Signaling POIs within the same LATAs as the STPs designated by the Hierarchical Network.

For SS7 interconnection between a CRTC and a Non-Hierarchical Network, the Non-Hierarchical Network will designate its Signaling POIs within the same LATAs as the STPs designated by the CRTC.

(3) Transition to the Default Arrangement

As a default matter, an SS7 Provider may not require another SS7 Provider to transition to the SS7 default arrangement before the start of Step 3 (July 1, 2007). On or after the date of Step 3, SS7 Providers may mutually agree to implement the default SS7 architecture at any time. Lacking mutual agreement, a SS7 Provider may require another SS7 Provider to conform to the default SS7 architecture with a reasonable cause. The following circumstances, among others, would be deemed to be such a reasonable cause: (1) where either SS7 Provider consolidates or moves its STPs; (2) where either SS7 Provider substantially upgrades its STP equipment; (3) the existing D-link quad set is underutilized; (4) the existing D-link quad set has reached it maximum layers (*i.e.*, is nearing exhaustion).

(4) Call Set-Up Message Transport

The transport of basic SS7 messages between two SS7 Providers for call set-up, maintenance and release purposes (*i.e.*, ISDN User Part or ISUP signaling and TCAP

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[20] A STP owned and operated by a Hierarchical Carrier that provides SS7 signaling to at least one Access Tandem is deemed to be "Hierarchical" for all signaling points that are served by that STP and owned by the same carrier.

messages exchanged between signaling points (*i.e.* switch or equivalent device) (*e.g.* for CLASS services such as automatic call-back and automatic recall)) within each provider's SS7 network will be on a bill-and-keep basis, beginning with the start of Step 3.[21] Each SS7 Provider will be financially responsible for transport of signaling traffic in both directions between its relevant Signaling POI and its signaling point (*i.e.*, switch or equivalent device). Each SS7 Provider is financially responsible for its own STP functionality.

If a carrier obtains STP functionality or SS7 hubbing service from another SS7 Provider, then the supplying SS7 Provider may assess a charge for such SS7 service. If a company chooses a third party to provide STP functionality on its behalf, that company is totally responsible for all charges by the third party hubbing provider (*i.e.*, for messages in both originating and terminating directions).

c. Database Message Transport and Queries

Database queries and the transport of database query TCAP messages and responses are chargeable functions and shall be paid by the carrier that originates a query to a database service to the service provider.[22]

5. Tandem Transit Provider Use of Interconnection Transport to Deliver Terminating Tandem Transit Service Traffic[23]

When a Hierarchical Carrier and a Non-Hierarchical Carrier interconnect under the default framework in Section II.A.3.c., above, and the Hierarchical Carrier is a Tandem Transit Provider (as defined in Section II.C.2.b., below) delivering traffic to the same Non-Hierarchical Network, the Tandem Transit Provider has the following options for transporting terminating Tandem Transit Service traffic, with default compensation as indicated:

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[21] Rates for transport of basic SS7 messages related to Tandem Transit Service traffic are addressed in footnote 30 and accompanying text.

[22] With respect to 8YY traffic, the 8YY service provider today is responsible for the cost of queries to the industry toll-free database. The ICF has not yet reached a recommendation as to how this should be handled under the Plan.

[23] The general principle in this section, which is that the carrier using capacity on an interconnection transport facility to carry Tandem Transit Service traffic should bear the full cost of that capacity, should also govern apportionment of the costs of interconnection transport facilities used to deliver Tandem Transit Service traffic if a Non-Hierarchical Network were to provide the Tandem Transit Service.

(a) Self-provision (including third party provision) of such transport by the Tandem Transit Provider, in which case no compensation is due from either party to the other party; or

(b) Use capacity on an interconnection transport facility established by the Non-Hierarchical Carrier, which the Non-Hierarchical Carrier has borne the entire financial responsibility to establish.

(1) For non-dedicated capacity, the Tandem Transit Provider pays the Non-Hierarchical Carrier, 100 percent of the appropriate ILEC interstate common transport rate per minute of use and per minute of use per mile (rated as airline mileage between the tandem and the serving wire center closest to the Edge of the Non-Hierarchical Carrier).

(2) For dedicated capacity (which must be in DS-1 or DS-3 increments), the Tandem Transit Provider pays the Non-Hierarchical Carrier 100 percent of the appropriate ILEC interstate switched dedicated transport for the same capacity and mileage (rated between the tandem and the serving wire center closest to the Edge of the Non-Hierarchical Carrier), including for any entrance facilities.

(c) Use capacity on an interconnection transport facility established by the Non-Hierarchical Carrier, some or all of which the Tandem Transit Provider has provided to the Non-Hierarchical Carrier at a discount pursuant to Section II.A.3.c., above.

(1) For non-dedicated capacity, the Tandem Transit Provider pays or credits the Non-Hierarchical Carrier 50 percent of the appropriate ILEC interstate common transport rate per minute of use and 50 percent of the per minute of use per mile rate for up to the mileage limit for which there is sharing (rated between the tandem and the serving wire center closest to the Edge of the recipient carrier), and 100 percent of the per minute of use per mile rate for additional mileage.[24]

(2) For dedicated capacity (which must be in DS-1 or DS-3 increments), the Tandem Transit Provider will reduce the

[24] With respect to traffic originated from a CRTC, the Non-Hierarchical (*i.e.*, Ordering) Carrier's purchase of Tandem Transit Service from the Tandem Transit Provider is a separate transaction from the payment or credit described in this paragraph.

pre-discount price of the interconnection transport facility (including entrance facilities) by the amount of capacity reserved by the Tandem Transit Provider.

6. Non-Hierarchical Carrier's Use of Interconnection Transport to Deliver Tandem Transit Service Traffic to Tandem Transit Provider

When a Hierarchical Carrier and a Non-Hierarchical Carrier interconnect under the default framework in Section II.A.3.c., above, and the Hierarchical Carrier is a Tandem Transit Provider receiving both interconnection and Tandem Transit Service traffic from the same Non-Hierarchical Carrier, the Non-Hierarchical Carrier (*i.e.*, Non-Hierarchical Ordering Carrier) has the following options for delivering the Tandem Transit Service traffic to the Tandem Transit Provider, with default compensation as indicated:

(a) Self-provision (including special access or third party provision) of such transport by the Non-Hierarchical Ordering Carrier, in which case no compensation is due from either party to the other party for the use of the transport facility to deliver Tandem Transit Service traffic originated by the Non-Hierarchical Ordering Carrier to the Tandem Transit Provider; or

(b) Use capacity on an interconnection transport facility established by the Non-Hierarchical Ordering Carrier, some or all of which the Tandem Transit Provider has provided to the Non-Hierarchical Ordering Carrier at a discount pursuant to Section II.A.3.c., above.

(1) For non-dedicated capacity, the Non-Hierarchical Ordering Carrier pays the Tandem Transit Provider 50 percent of the appropriate ILEC interstate common transport rate per-minute-of-use and 50 percent of the per minute of use per mile rate for up to the mileage limit for which there is sharing (rated between the tandem and the serving wire center closest to the Edge of the Non-Hierarchical Ordering Carrier), for each minute of Tandem Transit Service traffic and, in addition, the discounted compensation otherwise due under Section II.A.3.c., above, shall apply equally to each minute of Tandem Transit Service traffic and interconnection traffic sent by the Non-Hierarchical Ordering Carrier.

(2) For dedicated capacity (which must be in DS-1 or DS-3 increments), the Non-Hierarchical Ordering Carrier pays the Tandem Transit Provider the pre-discount price of the interconnection transport facility (including entrance

facilities, if provided) for the amount of capacity reserved by the Non-Hierarchical Ordering Carrier.

B. Modified Default Rules for Interconnection With Covered Rural Telephone Companies.

1. Definition of Covered Rural Telephone Company ("CRTC")

For the purposes of this plan, a "Covered Rural Telephone Company" is an ILEC that, as of July 1, 2005, and excluding those exchanges that are subject to the provisions for acquired exchanges, below, (a) meets the definition of a "Rural Telephone Company" in Section 3(37) of the Communications Act of 1934, as amended, 47 U.S.C. § 153(37), and is not a Bell Operating Company or affiliate thereof, and, in such study areas ("COSAs"), serves fewer than one million access lines; or (b) qualifies as a two percent carrier under the criteria established in Section 251(f)(2) of the Communications Act, 47 U.S.C. § 251(f)(2) with a holding company average of fewer than 19 switched access end user common lines per square mile. A CRTC shall not be treated as a CRTC with respect to customers it serves outside its ILEC serving area. To determine whether a carrier meets the statutory definition of a "Rural Telephone Company" under this section, a carrier shall presumptively be entitled to rely on the categorization published by the Universal Service Administrative Company for purposes of distributing high cost universal service support.

2. Modified Default Rules for CRTCs

The default rules in Section II.A., above, all apply, except as modified as follows:

a. Interconnection between CRTCs and non-CRTCs

A CRTC must establish an Edge within each Contiguous Portion of the CRTC's Study Area (as defined in the following paragraph) within a LATA (or, in a non-LATA state, local calling area). However, if a CRTC operates (itself, or with other carriers) and subtends an Access Tandem located outside of a Contiguous Portion of the CRTC's Study Area, the CRTC may designate that Access Tandem as an Edge for traffic originating from or terminating to such Contiguous Portion of the CRTC's Study Area, in which case the CRTC will be financially responsible for all transport costs in both directions on its side of the Access Tandem. If an Access Tandem is the source of equal access functionality, then the CRTC must designate that Access Tandem as its Edge for carriers that require equal access for interconnection, in which case the CRTC will be financially responsible for all transport costs in both directions on its side of the Access Tandem.

A "Contiguous Portion of the CRTC's Study Area," or any similar phrase includes all exchanges within that study area that share a common boundary with one or more of that CRTC's other exchanges. For purposes of this definition, a remote switch in the same study area as its host shall be considered part of the same Contiguous Portion of the

CRTC's Study Area as its host, regardless of whether the host and remote share a common exchange boundary.

Within a LATA, all CRTCs must also offer interconnection to any carrier at one or more meet points located on the boundary of each Contiguous Portion of the CRTC's Study Area. In the case of a CRTC that operates a tandem that is outside a Contiguous Portion of the CRTC's Study Area, and that tandem is its Edge, that CRTC must offer interconnection at one or more meet points located on the boundary of each Contiguous Portion of the CRTC's Study Area in which the tandem is located.

A carrier (other than another CRTC) interconnecting with a CRTC must either (i) establish an Edge within a Contiguous Portion of the CRTC's Study Area (or, in a non-LATA state, local calling area), or (ii) interconnect with a CRTC at a meet point. A carrier (other than another CRTC) interconnecting with a CRTC will receive traffic from the CRTC at, and the CRTC will deliver traffic to, these points.

When the CRTC and the carrier interconnecting with the CRTC have both established Edges within a Contiguous Portion of the CRTC's Study Area (or, in a non-LATA state, local calling area), or when a CRTC interconnects with another CRTC within the same LATA, the financial responsibility for interconnection transport between these Edges is governed by the rules for interconnection of like networks.

To the extent that the carrier interconnecting with the CRTC uses CRTC-provided transport, the CRTC Terminating Transport Charges apply, see Section III.C.3.b.[25] Similarly, to the extent that the CRTC uses transport provided by a non-CRTC within the CRTC's territory, then the CRTC must compensate the non-CRTC at the CRTC terminating transport rate. The non-CRTC is financially responsible for transport of traffic in both directions on its side of the meet point. When the CRTC provides facilities on both sides of the meet point, the non-CRTC shall be able to purchase, from the CRTC, transport, on the non-CRTC carrier's side of the meet point, to the meet point at a rate no greater than the interstate dedicated switched transport rate as of June 30, 2005 for the neighboring RBOC.

With respect to meet-point interconnection, a CRTC shall publish the location of its existing meet points. Within a Contiguous Portion of the CRTC's Study Area (or, in a non-LATA state, local calling area), a CRTC shall provide mid-span fiber meet

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[25] If, however, the CRTC elects to adopt a CRTC Terminating Transport Charge Cap equal to zero (*i.e.*, to have full bill-and keep for transport from the meet point to its Edge), then those meet points will serve, in effect, as two-way POIs with the CRTC financially responsible for transport in both directions on its side of the meet point. If the CRTC chooses instead to maintain CRTC Terminating Transport Charges at some positive rate, then interconnecting carriers are financially responsible for the transport of terminating traffic from the meet point to the CRTC End Office.

interconnection at any other point on its network within 2 miles of any such existing meet point.

Edges established to interconnect a CRTC with a Hierarchical Carrier or a Non-Hierarchical Carrier shall not count toward the limit on either carrier's maximum number of Edges in a LATA.

In those circumstances where a carrier interconnecting with a CRTC bears the financial responsibility for the transport of traffic all the way to the CRTC's Edge, the interconnecting carrier may fulfill its responsibility using any combination of: (1) common or dedicated switched transport purchased from the CRTC, subject to the pricing rules set forth in Section II.C.3.b., below; (2) transport provisioned using its own facilities; and (3) transport purchased from a third party.

The CRTC shall offer common and switched dedicated transport for the use of interconnecting carriers discharging this responsibility. The CRTC's rates for such transport shall be subject to constraints described in Section III.C.3.b., governing the CRTC Terminating Transport Charge.

b. Interconnection between CRTCs within the Same LATA

For interconnection between a CRTC and another CRTC located within the same LATA (or in a non-LATA state, local calling area), each carrier has the responsibility to transport traffic originating on its network to the Edge of the destination network. A CRTC is not required to establish an Edge within the service area of another CRTC in the same LATA to comply with this rule.

3. CRTC Acquisitions of Exchanges

a. Transactions between CRTCs

Where a CRTC acquires CRTC exchanges, there should be no change in the CRTC status of the buyer or its acquired properties.

b. Transactions between a CRTC and a non-CRTC

The following principles shall govern CRTC acquisitions of exchanges that were not, prior to the sale, part of a CRTC network:

(1) General Principles

i) Acquisitions should be allowed to take place, neither encouraged nor inhibited by the rules adopted under this Plan.

ii) The Plan should permit "graceful growth" for CRTCs, and thus permit these carriers to grow without losing CRTC status for study areas where they qualified as CRTC as of 7/1/05.

(2) Implementation

The following specific provisions implement these principles and shall apply to exchanges acquired on or after the date this Plan is filed with the FCC:

(a) Rural Exchanges Defined

As used here, "Rural Exchanges" are those exchanges in a single state being offered for sale by a single seller which, standing as an independent study area, would meet the definition of a "Rural Telephone Company" contained in Section 3(37) of the Communications Act, 47 U.S.C. § 153(37).

If the same buyer and seller consummate a series of transactions within any 12-month period involving one or more study areas (or parts of one or more study areas) within the same state that were classified as non-rural immediately prior to the sale, and each of the transactions in such series taken individually would be considered a sale of Rural Exchanges under this definition but the exchanges involved in the series, taken together, would not, then the FCC may review the series to determine which of the acquired exchanges, if any, should be treated as Rural Exchanges for purposes of these acquisition rules.

(b) Effects on Network Architecture When Exchanges Are Acquired from a Non-CRTC

The acquired exchanges will have either Hierarchical Network or Non-Hierarchical Network status under the terms of the Plan. (In other words, they will not have CRTC status. As a consequence, for example, the acquiring carrier will not be permitted to charge for CRTC Terminating Transport for those Exchanges and the acquiring carrier will also be responsible for any Tandem Transit Service charges associated with those exchanges.) If the buyer establishes or relocates Edges as a result of the transaction (*e.g.*, as a result of the reclassification of the acquired exchanges from Hierarchical to Non-Hierarchical), such changes shall be subject to the provisions of the Plan governing the establishment or relocation of Edges in Section II.A.2. of the Plan. Such changes shall become effective on the consummation date of the sale, but in no event sooner than 6 months after the buyer provides the notice of such change specified in Section II.A.2. of the Plan, notwithstanding any shorter notice period otherwise specified in that Section.

(c) Revenue Recovery for Acquired Exchanges; Safety Valve II

i. The buyer's universal service support for the acquired lines would be computed without regard to net settlements/reciprocal compensation revenue.

ii. Where the buyer purchases exchanges that were subject to federal price cap regulation and converts them to rate-of-return regulation, revenue recovery will operate as described in Section III.F.2. of the Plan for rate-of-return carriers, except as provided in paragraph (2)(a), above, using seller's cost and demand figures (and the seller's actual intrastate access revenues, if any) associated with the exchanges for the last full year prior to the sale. This may result in an adjustment to the per-line amount of ICRM support as defined in the Plan. Note that the acquisition of exchanges would not result in the reclassification of support from ICRM to TNRM, thus support would continue to be available to all ETCs in the acquired exchange areas.

iii. Where the buyer purchases exchanges that were subject to federal price cap regulation and keeps them under price caps, revenue recovery initially will be based on the seller's revenue recovery for the acquired exchanges, as described in section III.F.1. of the Plan for interstate price cap LECs. In other words, buyer will take seller's revenue-per-line ("RPL") for the acquired exchanges as of the date of sale, including the interstate SLC, any Universal Service amounts seller was receiving, any ICRM amounts due under the Plan, and any remaining inter-carrier charges permitted under the Plan.

The price cap buyer also would be eligible to receive additional ICRM support based on new loop investment (under the "Safety Valve" mechanism described in Section 54.305 of the Commission's rules (as modified by section V.B.8. of the Plan), and a new mechanism ("Safety Valve II") to permit recovery of non-loop investment in acquired exchanges. Under Safety Valve II:

1. Buyer would be eligible for Safety Valve II support immediately following the acquisition, based on a showing of actual investment in the acquired exchanges.

2. The "base line" measure of regulated non-loop expense should be the seller's "regulated non-loop expense" as of the year in which the transaction closes. Base line regulated non-loop expense is

calculated using the seller's net investment[26] in non-loop facilities multiplied by the seller's applicable annual carrying charge factor using an 11.25 percent rate of return on that net investment and statutory income tax rates.

3. Buyer will be eligible to recover 50 percent of the difference between its regulated non-loop expense and the "base line" regulated non-loop expense for the acquired exchanges. The buyer's regulated non-loop expense is calculated based on the buyer's net investment[27] in non-loop facilities for the acquired exchanges multiplied by the buyer's applicable annual carrying charge factor using an 11.25 percent rate of return on that net investment and statutory income tax rates. The calculation of Safety Valve II support can be made in any year (or partial year) following the acquisition using that year's regulated non-loop expense and base line expense amounts.

4. Safety Valve II support would be an exogenous adjustment to the buyer's allowed revenue; thus, pursuant to Section III.F.1.c.(1) of the Plan, a carrier could not increase or decrease its Safety Valve II support by virtue of its decision not to price SLCs at the cap, or to take advantage of SLC pricing flexibility.

5. This Safety Valve II support for newly acquired exchanges that were previously non-CRTC would be portable to other ETCs on the same terms as other ICRM support.

6. This Safety Valve II support will not be capped for the duration of the Plan.

iv. These rules will apply whether the buyer purchases a partial study area or a whole study area from the seller.

(d) Effect on Seller

In the case of the sale of a partial study area that is converted from price caps to rate-of-return regulation, the seller will make an appropriate one-time exogenous adjustment to its allowed revenue and, if seller is receiving any ICRM support for the affected

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[26] "Net investment" is calculated in the manner prescribed for calculation of "average net investment" on line 4 of FCC form 492A.

[27] See immediately preceding footnote.

exchanges, the seller will revise its calculation of ICRM support to reflect the sale of the rural exchanges.

C. Tandem Transit Service

Under this Plan, a carrier that has an obligation to deliver its traffic to another carrier's Edge, or, in the case of traffic exchanged with a CRTC, to accept CRTC-originated traffic within a Contiguous Portion of the CRTC's Study Area (including at a meet point), may choose to satisfy that obligation by direct interconnection (using its own facilities or facilities obtained from another carrier), or by indirect interconnection through a third party. Tandem Transit Service is a switched transport function that is provided by a third party and that is used to effectuate interconnection between two carriers within a LATA (or in a non-LATA state, local calling area) that are not directly interconnected.[28] Tandem Transit Service is not included in the interconnection obligations of the Tandem Transit Provider (as defined in paragraph II.C.2.b., below) established above.

The FCC should find prospectively that Tandem Transit Service is an interstate common carrier service and that, accordingly, the requirements of section 214 and Part 63 of the Commission's rules would govern any discontinuance or withdrawal of Tandem Transit Service.[29] In addition, therefore, Tandem Transit Providers cannot unjustly or unreasonably discriminate among requests for Tandem Transit Service. All ILECs that are providing Tandem Transit Service on the day before the beginning of Step 3 of the rate transition will, if the Plan is adopted in its entirety as proposed, continue to provide Tandem Transit Service through the eight-year term of this Plan.

During the first two years of the Plan, rates for Tandem Transit Service shall be no higher than the rates for such service on June 30, 2005, or the day before the first day of this Plan.[30] During the three-year period beginning at the start of Step 3 of the rate transition, rates for this service shall be computed to produce no more than the Average Revenue Per Minute Limit calculated using the methodology in Section III.C.3.a., below. For the following three years, *i.e.*, beginning on the first day of the sixth year of the Plan, this cap

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[28] A CRTC may also provide transit between (1) any other point on its network within a Contiguous Portion of the CRTC's Study Area on its network within two miles of an existing meet point; and (2) a meet point located outside of that Contiguous Portion of the CRTC's Study Area.

[29] Upon expiration of the Plan, all signatories may argue without prejudice that any provision or combination of provisions of the Communications Act compels or does not compel the offering of Tandem Transit Service.

[30] The cap will be adjusted to include SS7 functionality if SS7 is not included in existing transit rates.

shall increase as described in Section II.C.3.b, below. Effective July 1, 2013, this cap shall expire.

1. Service to be provided

Tandem Transit Service provided will include tandem switching and tandem switched transport (also called common transport), or the functional equivalent, between the following locations:

- With respect to Tandem Transit Service traffic being delivered from a Non-Hierarchical Carrier to any carrier, between the tandem switch and the Non-Ordering Carrier's Edge;[31]

- With respect to traffic being delivered from a CRTC to any carrier, between the originating CRTC's meet point with the Tandem Transit Provider and the Ordering Carrier's Edge.[32]

Tandem Transit Service provides functions currently obtained for local traffic under local transit agreements and for access traffic through jointly provided access.

2. Roles of each carrier in a Tandem Transit Service Arrangement

There are three distinct roles in a Tandem Transit Service arrangement: Ordering Carrier, Tandem Transit Provider, and Non-Ordering Carrier.[33]

a. Ordering Carrier

When a carrier that is financially responsible to transport traffic to another carrier's Edge, or, in the case of traffic exchanged with a CRTC, is responsible for accepting delivery of traffic within a Contiguous Portion of the CRTC's Study Area (including at a meet point), chooses to do so through the use of Tandem Transit Service, it is the Ordering Carrier for such traffic. The Ordering Carrier is financially responsible for the delivery of Tandem Transit Service traffic to the point the Tandem Transit Provider has designated to accept such traffic and for the payment of Tandem Transit Service fees to

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[31] Where the terminating carrier is a CRTC, the Tandem Transit Provider may elect to deliver Tandem Transit Service traffic to the meet point with the terminating CRTC or to the terminating CRTC's Edge.

[32] See preceding footnote.

[33] Because Tandem Transit Service roles do not align with originating and terminating carriers those terms are avoided. For example, if the originating carrier is a CRTC, the terminating carrier may be the Ordering Carrier.

the Tandem Transit Provider. Ordering carriers retain the responsibility for delivery of traffic to the Non-Ordering Carrier's Edge (or, when the Non-Ordering Carrier is a CRTC, to accept delivery of CRTC-originated traffic within the CRTC serving area (including at a meet point)), to resolve any business disputes with the Non-Ordering Carrier, to pay any charges assessed by the Non-Ordering carrier on that traffic, and to bill the Non-Ordering Carrier for any charges the Non-Ordering Carrier owes to the Ordering Carrier. Ordering Carriers must ensure that the trunk groups between the Ordering Carrier and the Tandem Transit Provider are not chronically or persistently underutilized in accord with section II.A.2.b., above.

b. Tandem Transit Provider

The Tandem Transit Provider is the carrier that indirectly interconnects the Ordering Carrier with the Non-Ordering Carrier. This carrier owns the transit tandem, manages its tandem switching resources, provides the Tandem Transit Service and collects fees therefor (*i.e.*, for tandem switching and common transport). This carrier may be a non-incumbent carrier competing for Tandem Transit Service business. The Tandem Transit Provider is responsible to deliver the Tandem Transit Service traffic to the Non-Ordering Carrier's Edge (or, where the Non-Ordering Carrier is a CRTC, to deliver such traffic to and accept such traffic from the meet point with the CRTC). However, the Tandem Transit Provider is not financially responsible for: intercarrier compensation related to Tandem Transit Service traffic, such as terminating access and reciprocal compensation charges during Steps 1-3; the Uniform Termination Charge (beginning with Step 4); or for CRTC Terminating Transport Charges. The Tandem Transit Provider is not obligated to bill the Ordering Carrier or Non-Ordering Carrier for such intercarrier compensation. The Tandem Transit Provider is not obligated to serve as the intermediary arbiter of disputes between the Ordering and Non-Ordering Carriers, except to the extent that the dispute is caused by the functionalities provided by the Tandem Transit Provider or unless the Tandem Transit Provider chooses to do so as part of an optional and premium service that goes beyond the Tandem Transit Service described herein. Where the Tandem Transit Provider makes use of a facility for which an Ordering or Non-Ordering Carrier bears a financial obligation, it will compensate that carrier under terms described in II.A.5-6. To the extent that Tandem Transit Service traffic is commingled with interconnection traffic, Tandem Transit Providers will use relevant call-identifying and call record information to accurately bill the carrier that is financially responsible for compensating it for the Tandem Transit Service.[34]

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[34] The ICF recognizes that issues related to the provision of call detail information/call records needed in certain cases for billing purposes among carriers participating in transiting arrangements, the charges for such records, if any, and the relationship of any such charges to the revenue caps on Tandem Transit Service established herein, require further definition and resolution. The ICF commits to working toward a mutually agreeable solution to these billing issues if they are not resolved by the ICF Plan structure.

c. Non-Ordering Carrier

The Non-Ordering Carrier is the carrier to which the Ordering Carrier is indirectly interconnected by the Tandem Transit Provider. A Non-Ordering Carrier cannot refuse to accept Tandem Transit Traffic from any Tandem Transit Provider with which the Non-Ordering Carrier directly interconnects, nor may a CRTC Non-Ordering Carrier refuse to deliver Tandem Transit Service traffic as specified by the Ordering Carrier to any Tandem Transit Provider with which that CRTC Non-Ordering Carrier directly interconnects.[35] A CRTC will be a Non-Ordering Carrier for both originating and terminating traffic, except when it sends traffic to another CRTC via a Tandem Transit Provider. Thus, in such cases, where a CRTC originates traffic to be delivered, via a Tandem Transit Provider, to a carrier other than another CRTC in the same LATA, the Ordering Carrier selects the Tandem Transit Provider and is financially responsible for payment of Tandem Transit Service charges to such Tandem Transit Provider for such traffic (See note 34, above).

An illustrative, more detailed list of responsibilities applicable to Ordering Carriers, Non-Ordering Carriers, and Tandem Transit Providers, is attached as Appendix A to this Plan.[36]

3. Upper Limits on Rates for Tandem Transit Service

These provisions will replace all forms of intercarrier compensation for ILEC switched transiting services (including services provided under tariff, interconnection agreement or commercial agreement) that exist as of June 30, 2007.

a. July 1, 2007-June 30, 2010

In any study area where ILEC interstate and intrastate rates for jointly provided tandem switched access differ on June 30, 2007, they will be brought into parity on July 1, 2007, by reducing rates in the jurisdiction where rates are higher. The effect of this change on ILEC access revenues will be estimated at the outset of the plan, based on rates in effect on June 30, 2005 and 2004 base period demand, and included in the Adjusted Access Revenue Shift Per Line in III.F.1.a.

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[35] Under the Edge rules, a Non-Ordering Carrier cannot refuse direct interconnection.

[36] All interconnecting carriers have a vested interest in maintaining the efficiency and reliability of trunking. The ICF will explore ways to assure meaningful participation in the management and engineering of trunk groups by a party that does not have control of such trunk groups but has traffic for which it bears financial responsibility on such trunk groups.

Rates for Tandem Transit Service shall be computed pursuant to Section 201 and 202 of the Act, to produce no more than an Average Revenue Per Minute Limit for a three-year period commencing at the start of Step 3 of the rate transition as follows: in each ILEC study area the ILEC's transiting service revenues (interstate and intrastate switched access transiting, local transiting, CMRS transiting and any other transiting, all calculated at the June 30, 2005 rates, as determined in the paragraph above, and evaluated at 2006 base period demand) will be summed and divided by 2006 base period transiting minutes.

b. July 1, 2010 – June 30, 2013

Beginning on the date six years after the start of this Plan, and continuing until the end of the initial term of the Plan, Tandem Transit Service rates will continue to be subject to the requirements of Sections 201 and 202 of the Communications Act that rates be just, reasonable, and not unreasonably discriminatory. In addition, each Tandem Transit Provider will remain subject to the discontinuance obligations of Section 214 of the Act.

Each year, starting July 1, 2010, the Average Revenue Per Minute Limit calculated in Section III.C.3.a., above, shall increase by 3 percentage points per year.

4. Additional or Optional Features

The Tandem Transit Provider may elect to offer new optional features, the rates for which will not be subject to the Average Revenue Per Minute Limit. For example, the Tandem Transit Provider may offer arrangements that provide reserve transit capacity to allow outage recovery in the event of the failure of a direct interconnection facility or alternate routing to different points on the Ordering Carrier's network. Such an arrangement would be considered a new service. The Tandem Transit Provider may establish reasonable charges for such arrangements, but the per-minute charges for any traffic carried would be subject to the Average Revenue Per Minute Limit. The Ordering Carrier will choose whether to purchase any such optional features.

5. Traffic Volume Limitations and Premium Charges

The Tandem Transit Service is subject to certain traffic volume limitations.

(a) An Ordering Carrier may order Tandem Transit Service from a Tandem Transit Provider for up to a total of 400 thousand minutes of use (MOU) between two switch points per month without restriction, and without regard for the direction in which the minutes travel. Traffic volumes are measured between two switch points between which traffic is transmitted using Tandem Transit Service, *i.e.*, not between a group of switches owned by one carrier and a group of switches owned by another carrier.

(b) If an Ordering Carrier sends (or, in the case of traffic originated by a CRTC, receives) more than an average of 400 thousand MOU (as defined above) between two switch points for three consecutive months, the

Tandem Transit Provider may give notice to the Ordering Carrier that it has exceeded the Tandem Transit Service traffic threshold. The notice commences a 3-month grace period. Following the grace period, for each month that the Ordering Carrier exceeds the 400 thousand MOU threshold (as defined above), the Tandem Transit Provider may assess a premium rate for all Tandem Transit Service MOU for which the Ordering Carrier is responsible in that month between those two switch points that does not exceed the sum of the tandem switched (common) transport rate and two times the tandem switching rate for traffic between the two switch points. If the Ordering Carrier does not exceed the 400 thousand MOU threshold (as defined above) for a six-month period, the notice expires, and no premium would apply thereafter unless a new notice was issued and a new grace period had passed.

(c) An Ordering Carrier that exceeds the 400 thousand MOU threshold (as defined above) shall not be limited to "direct final trunk group" interconnection, but may continue to rely on Tandem Transit Service to route overflow traffic that exceeds the capacity of its established direct interconnection facilities.

(d) Premium charges assessed under paragraph (b), above, shall not be subject to the Average Revenue Per Minute Limit. The incremental revenue from any premium charges assessed under paragraph (b), above, shall not be included in any calculation to determine whether the ILEC is complying with the Average Revenue Per Minute Limit.

(e) A Tandem Transit Provider shall not be entitled to assess a premium charge to the extent that the Ordering Carrier timely placed orders for grooming or facilities necessary to eliminate the overage from the Tandem Transit Provider, but the Tandem Transit Provider failed to fulfill those orders. To the extent that the Non-Ordering Carrier's lack of capacity causes the continued overage, the penalty shall not apply for a period of 2 additional months. Ordering Carriers may be able to pursue damages claims against third parties that cause continued overages.

6. Reasonable Limits on Use of Tandem Transit Service

Tandem Transit Providers may constrain the use of Tandem Transit Service in situations of tandem congestion or exhaust, as identified using standard industry congestion relief measures, according to the principles identified in this section.

(a) The parties are encouraged to come to a mutually agreeable solution to relieve the tandem congestion or exhaust.

(b) In cases of port exhaust or processing capacity exhaust, despite efficient utilization as described above, where the parties cannot reach agreement,

the Tandem Transit Provider may constrain Tandem Transit Service use, but must adhere to the following principles:

(i) Criteria for migrating Tandem Transit Service traffic off of the tandem must be uniformly applied in a nondiscriminatory manner;

(ii) The Tandem Transit Provider's process for identifying Tandem Transit Service traffic to be migrated off of the tandem must be made public; and

(iii) The Tandem Transit Provider must provide reasonable advance notice to the Ordering and Non-Ordering Carriers before it discontinues providing all or a portion of the affected Tandem Transit Service.

7. Competitive Tandem Transit Providers

The tariffed rates of Tandem Transit Providers other than ILECs may not exceed ILEC Tandem Transit Service rates in the ILEC's study area, in much the same way that CLEC access rates are benchmarked against ILEC rates today. This benchmark will also apply where the Ordering Carrier is a Tandem Transit Provider.

III. Transition to the Uniform Intercarrier Traffic Exchange and Compensation Plan

There will be a transition plan to move all intercarrier compensation rates from existing levels, to the levels under the Plan. The transition to a uniform termination rate with a uniform structure would be completed over the first thirty six months, in four steps; the complete transition to "bill-and-keep" for termination would consist of seven steps completed over a seventy-two month period. Intra-network transport moves to "bill-and-keep" at the end of twenty-four months, except that a CRTC may elect to charge a CRTC Terminating Transport Charge, as defined in Section III.C.3.b., below. Current ILEC interstate and intrastate access charges will be recovered from end user charges, from new federal support mechanisms established under this Plan (where necessary), from a transitory Uniform Termination Charge, as defined in Section III.C.3.a., below, and, for CRTCs, a Terminating Transport Charge. In addition, as discussed above, carriers will continue to charge each other for the provision of interconnection transport and Tandem Transit Service.

A. Access Charge Transition

1. ILEC Access Charges

Except with respect to charges for transit and interconnection transport (discussed in Sections II.B and C, below), ILEC interstate and intrastate switched access rates will transition to "bill-and-keep" over 7 steps. Except as described below, at no point may a

carrier charge higher rates for terminating than for originating switched access rate elements in a particular jurisdiction. During the first four steps, access charges are transitioning to a uniform termination charge of $.000175/minute. During these first four steps, all originating and terminating access charges are eliminated other than interconnection transport, a uniform termination charge, transit and, for CRTCs, terminating transport. The uniform termination charge of $.000175/minute (described further in Section II.C, below) remains in place for two years, and then is phased to bill-and-keep in two steps, reaching bill-and-keep at the start of Step 7.

a. Initial Four Step Process

ILEC interstate and intrastate access charges shall transition to a Uniform Termination Charge, at a rate of $.000175/minute, in four steps as follows:

(1) At the start of Step 1 (effective July 1, 2005) aggregate interstate and intrastate switched access revenue for demand transitioning to bill-and-keep by Step 7 (*i.e.* except for Tandem Transit Service revenues, interconnection transport, and CRTC Terminating Transport Charges) will be reduced by 25 percent off the revenue that would have been generated by the rates in effect as of 06/30/05 (the day before the start of Step 1), using 2004 Base Period demand. Intrastate and interstate switched access rates transitioning to bill and keep, other than Facilities-Based Transport Charges,[37] will be reduced in uniform proportion to generate the required switched access revenue reduction using 2004 Base Period demand.

(2) At the start of Step 2 (effective July 1, 2006) aggregate interstate and intrastate switched access revenue for demand transitioning to bill-and-keep will be reduced by 33 percent off the revenue that would have been generated by the rates in effect as of 06/30/06 (the day before the start of Step 2), using 2005 Base Period demand. Intrastate and interstate switched access rates other than facilities-based transport charges will be reduced in uniform proportion to generate the required switched access revenue reduction. If switched access rates, other than Facilities-Based Transport Charges and other than a termination rate of $.000175/minute, are fully eliminated, these Facilities-Based Transport Charges must be reduced using 2005 Base Period demand, but, for CRTCs, not below the levels of any CRTC Terminating Transport Charge to be implemented in Step 3.

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[37] "Facilities-Based Transport Charges" exclude residual charges such as the TIC that are not associated with specific transport facilities or services. It does include dedicated transport, common transport, tandem switching, entrance facilities and other rate elements directly associated with those elements. Facilities-Based Transport Charges will be flash-cut in Step 3.

(3) At the start of Step 3 (July 1, 2007), all Facilities-Based Transport Charges for demand transitioning to bill-and-keep will be flash cut to bill-and-keep, and interconnection transport and Tandem Transit Service will be flash cut to the new rates under this Plan. In addition, CRTCs flash cut to the new CRTC Terminating Transport rates. If the reduction in aggregate interstate and intrastate switched access revenue as a result of these flash cuts is less than 50 percent off the revenue that would have been generated by the rates in effect as of June 30, 2007 (the day before the start of Step 3) using 2006 Base Period demand, each remaining interstate and intrastate switched access rate element will be reduced in uniform proportion until the aggregate switched access revenue reduction reaches 50 percent. However, once the termination rate reaches the Uniform Termination Charge level of $.000175/minute, all further reductions are taken from all other access rates.

(4) At the start of Step 4 (July 1,2008) all interstate and intrastate switched access rates for demand transitioning to bill and keep will be eliminated, other than the Uniform Termination Charge of $.000175/minute.

b. Targeting to Achieve Parity by All ILECs

If the average intrastate switched access revenue per minute for access other than Facilities-Based Transport Charges for an ILEC study area is 20 percent greater than the average interstate switched access revenue, other than Facilities-Based Transport Charges, per minute, or vice versa, instead of reducing each access rate element (other than a Facilities-Based Transport Charge rate element) as indicated in steps (1)-(4), above, the ILEC must use all of the aggregate access revenue reduction for the given year to uniformly reduce all switched access rates other than Facilities-Based Transport Charge rates in the "jurisdiction" with the higher of the two average revenues per minute until that average revenue per minute is within 20 percent of the other average revenue per minute.[38] The average switched access revenue per minute in each jurisdiction will be calculated by dividing total switched access revenues, other than those for Facilities-Based Transport Charges, for each jurisdiction by access local switching minutes for that jurisdiction respectively.

(1) When rates are within 20 percent, a carrier may choose to reduce the higher rate to parity, but is not required to do so.

(2) Except as required by Section III.A.1.c., below, when a carrier is no longer targeting rates to the higher jurisdiction, the reductions will be applied in uniform proportion to lower all access rates, other than Facilities-Based

[38] This provision will not be applicable in states where state PUCs have ordered mirroring of interstate and intrastate switched access rates.

Transport Charges, in both "jurisdictions." Facilities-Based Transport Charges will be reduced solely through the flash-cut in Step 3 (unless required as described in Steps III.A.1.a.(1) and (2), above).

(3) An ILEC using targeting must always make an equivalent aggregate dollar reduction in total access revenues as would have occurred had the ILEC made reductions as specified for that year in steps III.A.1.a.(1) through (4) (whichever is applicable).

(4) In a multistate interstate filing entity, the ILEC may allocate the dollar equivalent of what would otherwise be interstate access reductions for the filing entity among the study areas included in that filing entity, provided that in aggregate all reductions are taken in any given year. Targeting would not affect the ability of an ILEC to average interstate access rates into a multistate filing entity during the transition.

(5) This targeting does not affect the transition for non-access rates, such as reciprocal compensation/ISP-bound.

c. Targeting of Originating Switched Access by CRTCs

Once interstate and intrastate switched access rates (other than Facilities-Based Transport Charges) are within 20 percent (or at parity if the ILEC opts to bring the rates to parity), a CRTC will first reduce originating interstate and intrastate switched access rates (other than Facilities-Based Transport Charges) uniformly until those rates reach an Originating Threshold. The Originating Threshold will be determined by multiplying the June 30, 2005 interstate weighted (by local switching MOUs) average local switching rate for price cap LECs[39] by: in Step 1, 75 percent; in Step 2, 50 percent, in Step 3, 25 percent; in Step 4, 0 percent. At any step, once the originating switched access rates reach the Originating Threshold, the CRTC will then apply any reductions to reduce uniformly originating and terminating interstate and intrastate switched access rates (other than Facilities-Based Transport Charges). However, once the termination rate reaches the Uniform Termination Charge rate level of $.000175/minute and terminating transport reaches the levels of any CRTC Terminating Transport Charge to be implemented in Step 3, all other reductions will be taken to other access rates. At no time may a CRTC raise

[39] If data lag is a problem, this average could be calculated as of the tariff year immediately prior to Step 0 (e.g. Tariff Year 2003, assuming that Tariff Year 2005 is Step 1).

terminating switched access rates above the level of the Uniform Termination Charge and CRTC Terminating Transport Charge described below.[40]

At Step 3, if the elimination of the CRTC's switched access transport rates (excluding CRTC Terminating Transport that flash cuts to the new rates established under this Plan) produces a reduction in base period adjusted revenues of less than 50 percent (using 2006 demand), the CRTC shall, once it has brought interstate and intrastate switched access rates within 20 percent (or to parity if it elects to continue to reduce the higher rates to parity), continue to target its switched access reduction uniformly to reduce its originating non-transport access rates down to a threshold that is 25 percent of the 2004 nationwide average interstate switched access local switching rate for price cap ILECs.

d. Alternative for Rate-of-Return CRTCs.

In lieu of the first step of the transition in III.A.1.a.(1), above, a rate-of-return CRTC may elect the following transition (price cap CRTCs can achieve parity through targeting as described in III.A.1.b., above):

At the start of Step 1, reduce the higher of interstate or intrastate switched access rates (other than Facilities-Based Transport Charges) to the lower of the two rates. The CRTC would not be required to lower its average access rates in the higher jurisdiction below an average in that jurisdiction of $.0125 per minute (calculated by dividing total non-transport switched access revenues by local switching minutes), unless the CRTC did not achieve a reduction in aggregate access revenue equivalent to 25 percent off the revenue that would have been generated by the rates in effect as of June 30, 2005 (the day before the start of Step 1), using 2004 Base Period demand, in which case the CRTC would, in uniform proportion, reduce switched access rates, other than for Facilities-Based Transport Charges, until it had achieved a 25 percent aggregate switched access revenue reduction.

e. Targeting by Certain Price Cap Carriers

Any price cap carrier that reverses an allocation of Pooled Local Switching Revenue made under Section 61.48(m)(2) of the Commission's rules, 47 C.F.R. § 61.48(m)(2), shall first target its access charge reductions under this section to eliminate any resulting increase in the carrier common line charge caused by such reversal.

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[40] This does not change existing pricing flexibility rules consistent with the pricing rules in the Plan associated with the Uniform Termination Charge and the CRTC Terminating Transport Charge.

2. CLEC Access Charges

CLEC switched access rates will be reduced so that they are no higher than the competing ILEC switched access rates in the same area for the same "jurisdiction" in the same year.

A carrier competing in the CRTC's service territory may not charge a terminating transport rate higher than the CRTC Terminating Transport Charge of the CRTC for transport to its Edge within such service territory. Such rate would be offered to any carrier that needs to reach the competitor's Edge in the CRTC territory for traffic bound for customers in the CRTC's territory. This rule affects rates only and does not alter any provision of the default network interconnection rules described in this Plan.

B. ILEC Switched Transiting Service

Through June 30, 2007, rates for transit would continue to be determined under the applicable existing mechanism. Until network interconnection transport obligation changes take effect at step 3, carriers originating traffic subject to obligations described in section 251(b)(5) of the Act (including ISP-bound traffic regardless of the applicability of 251(b)(5)), are responsible for the use of and payment to tandem transit and interconnection transport service providers. With respect to this traffic, originating carriers are also responsible for any applicable termination charges.

Beginning on July 1, 2007, Tandem Transit Service rates will be set according to the rate commitment or benchmark, described in Section II.C.3., above.

Any reduction in switched access revenues as a result of moving switched transiting rates to parity will be incorporated into the calculation of the Adjusted Access Revenue Shift Per Line (as described in Section III.F.1, below), and recovered from end users and, if necessary, the new federal support mechanisms established under this Plan.

C. Uniform Termination Charge and CRTC Terminating Transport Charges

1. Termination

Termination is the acceptance of traffic routed according to NPA-NXX or LRN by the carrier responsible for that NPA-NXX or LRN at its designated Edge for delivery to the called party, *i.e.*, the Terminating Carrier. If a carrier[41] assigns its terminating Edge responsibilities in the LATA associated with a particular NPA-NXX or LRN to another carrier, the assignee (*i.e.*, Edge operator/owner) is the Terminating Carrier. If a reseller

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[41] To the extent telephone numbers are directly assigned to Providers of Information Services (PIS), additional modifications to the Plan may be needed.

adopts the Edges of the underlying carrier, the underlying carrier (*i.e.*, the Edge operator/owner) is the Terminating Carrier.[42]

2. CRTC Terminating Transport

CRTC Terminating Transport refers to the interconnection transport a CRTC provides to carriers for the delivery of terminating traffic from any point within its territory to its designated Edge as described in Section II.B.2., above.

A non-CRTC carrier with an Edge located in a CRTC service area may assess a terminating transport charge when a carrier with financial responsibility for interconnection transport to reach that non-CRTC carrier's Edge uses facilities controlled by that non-CRTC carrier within the CRTC service area to reach that non-CRTC carrier's Edge. Such charge may not exceed the CRTC Terminating Transport Charge for the same service in that same service area.

3. Usage subject to the Uniform Termination Charge and CRTC Terminating Transport Charges

a. Uniform Termination Charge

Beginning at Step 4, each carrier that terminates traffic to end users will institute a Uniform Termination Charge of $0.000175 per minute for all switched minutes for which it provides termination (excluding called party pays calls, *e.g.*, 8YY, for which the called party pay service provider also provides termination). At Step 6 of the transition, commencing on July 1, 2010, the Uniform Termination Charge shall be reduced by 50 percent, to $0.0000875 per minute. At Step 7, commencing on July 1, 2011, the Uniform Termination Charge shall be eliminated.

b. CRTC Terminating Transport Charges

All switched transport provided by a CRTC to reach its Edge, where another carrier has the financial responsibility to do so, is subject to the CRTC Terminating Transport Charges, regardless of whether that transport is provided on a dedicated or per minute basis, and regardless of whether the traffic is local, toll, ISP-bound or EAS, except that CRTC Terminating Transport Charges will not apply to called party pays-type traffic, *e.g.*, 8YY, for which the CRTC is the called party pay service provider. A CRTC may not assess CRTC Terminating Transport Charges (including entrance facilities charges) on traffic that is delivered to its Edge by another carrier over facilities that the CRTC does not control.

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[42] A CLEC using a UNE platform is not a reseller for purposes of this provision and is treated as a facilities-based carrier.

The CRTC Terminating Transport Charge rate shall be determined subject to the following:

(1) The weighted average of common and dedicated switched terminating transport rates across a holding company may not exceed $0.0095 per terminating minute, or such lower rate that the CRTC elects (the "CRTC Terminating Transport Charge Cap"). Compliance with the CRTC Terminating Transport Charge Cap shall be measured by calculating total terminating switched transport revenue ÷ total terminating switched transport MOU among all affiliated CRTCs that elect to assess CRTC Terminating Transport Charges. For avoidance of doubt, the CRTC Terminating Transport Charge Cap also applies to CRTCs that do not have a holding company structure, but have only one study area.

(2) Prior to the July 1, 2005 annual filing, a CRTC must declare its CRTC Terminating Transport Charge Cap. A price cap CRTC must calculate its Total Access Revenue Shift in Section III.F.1.a., below, based on this declaration. A rate-of-return CRTC must calculate its Total Revenue Recovery Amount in Section III.F.2.a., below, based on this declaration. At the end of Step 2, a CRTC may make a supplemental declaration in which it elects to adopt a CRTC Terminating Transport Charge Cap different from the one it initially used to calculate its Total Access Shift or Total Revenue Recovery Amount, but in no event greater than the levels specified in this section. If the CRTC makes such a supplemental declaration, it must recompute the Total Access Shift or Total Revenue Recovery Amount (as applicable) as if it had declared such revised CRTC Terminating Transport Charge Cap at the outset of the transition, make all required reductions for Step 1 and Step 2, and use those recomputed rates as its rates going forward for determining Step 3 (and subsequent) rates.

(3) The weighted average of common and dedicated switched CRTC Terminating Transport Charges within any single study area within a multi-study area holding company may not exceed $0.013 per terminating minute, measured in the same way. Compliance with this limit shall be measured by calculating total terminating switched transport revenue ÷ total terminating switched transport MOU for the study area.

(4) These caps shall be established using demand from previous year as base period.

(5) The Responsible Carrier (*i.e.*, the carrier paying the CRTC Terminating Transport Charges) shall have the right to purchase CRTC Terminating Transport from the CRTC on a flat-rated basis or self-provision such facilities in accordance with physical interconnection provisions of this

plan. The CRTC may establish different rates for DS-1 facilities used to transport traffic to the CRTC Edge.[43] The rate for such facilities must maintain the crossover point between common transport and DS-1 transport that is at or below the number of minutes as of June 30, 2007 when setting CRTC Terminating Transport Charges within a study area.[44]

(6) The CRTC may establish different CRTC Terminating Transport Charges for DS-3 facilities used to transport traffic to the CRTC Edge. The rate for such facilities must maintain DS-1 to DS-3 crossover point at or below the number of DS-1's as of June 30, 2007 when setting the CRTC Terminating Transport Charges within a study area.[45]

(7) The CRTC Terminating Transport Charge Cap may not be set so that CRTC Terminating Transport Charge revenues from all terminating minutes will be greater than the Adjusted Access Revenue Shift Per Line times the number of Base Period lines for the applicable Tariff Year at the third step.

c. Responsible Carrier

The Responsible Carrier is the carrier that pays the CRTC Terminating Transport Charges to the CRTC and Uniform Termination Charge to the Terminating Carrier with respect to all traffic accepted by the Terminating Carrier for termination (as described above). In general, the Responsible Carrier will be the carrier that interconnects in that LATA (in a non-LATA state, local calling area) with the Terminating Carrier either directly or indirectly through a Tandem Transit Provider. A Tandem Transit Provider is not the Responsible Carrier, unless the Tandem Transit Provider expressly consents to be the Responsible Carrier. In addition, in the case of toll free (8YY) or other called party pays traffic, the called party pays service provider will be the Responsible Carrier

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[43] Such rates are not applicable to special access services not used for interconnection.

[44] The switched access rates in effect on June 30, 2007 shall be used, provided that the ILEC has made no changes to those rates in the 90-day period leading up to June 30, 2007. If changes to any such rate have been made during that period, then the simple average of the rate in effect on each day during such 90-day period shall be used instead.

[45] The switched access rates in effect on June 30, 2007 shall be used, provided that the ILEC has made no changes to those rates in the 90-day period leading up to June 30, 2007. If changes to any such rate have been made during that period, then the simple average of the rate in effect on each day during such 90-day period shall be used instead.

whenever the called party pays service provider is the Terminating Carrier or delivers traffic (directly or through a Tandem Transit Provider) to the Terminating Carrier.

D. Transition of Interconnection Transport

Through June 30, 2007, rates for interconnection transport would continue to be determined under the applicable existing mechanism. Interconnection transport responsibilities, as described in Section II, above, will be flash cut at the start of Step 3 (July 1, 2007).

Insofar as the implementation of the Plan reduces a carrier's spend under a volume or revenue commitment made prior to an FCC order adopting this Plan, carriers must amend such commitments to restore the relationship between current volume/spend and the commitment level that existed prior to the implementation of the Plan, without any change to the prices that a carrier is paying for other circuits under that commitment. In no case can the change in financial responsibility result in a carrier paying a penalty or a higher price for other services under that commitment because their volume has been reduced by that change.

As of July 1, 2007, intrastate access rates for facilities used for interconnection transport rates will be moved to interstate dedicated switched transport rates, and ILECs will implement the discounts described in Section II.A.3.c. To the extent that these changes result in a change in ILEC switched access revenue, these amounts will be incorporated, for price cap carriers, into the calculation of the Adjusted Access Revenue Shift Per Line (as described in Section III.F.1.a., below), and, for rate-of-return carriers, into the Total Revenue Recovery Amount (as described in Section III.F.2.a., below). These amounts will be recovered from end users and, if necessary, the new support mechanisms established under this Plan.

E. Reductions in All Other Intercarrier Compensation Rates for All Interconnecting Carriers – Reciprocal Compensation, Wireless and Paging Intercarrier Compensation, Independent Company Settlements, and ISP-Bound Compensation

1. In General

a. Overview

These provisions would become effective at the start of Step 1 of the Plan, and last until the start of Step 4.

There will be a uniform rate during the transition for all ISP-bound traffic and non-access traffic[46] (including foreign exchange and virtual FX traffic provided on a non-access basis[47] ("FX traffic")), regardless of whether traffic is direct-trunk or tandem-routed. For application of the rates set forth below, the distinction between traffic greater than 3:1 and other traffic is eliminated.[48] The uniform rate applies to all traffic other than (i) exchange access other than FX traffic addressed below; (ii) CRTC-CMRS traffic governed by other provisions of the Plan; (iii) ILEC-ILEC traffic; and (iv) out-of-balance traffic as described below. Beginning July 1, 2007, the CRTC Terminating Transport Charge may be assessed, subject to Section III.C.3.b.

(1) In any state that has ordered bill-and-keep for the exchange of all ISP-bound and non-access traffic (not just ISP-bound or FX traffic), traffic would continue to be exchanged on a bill-and-keep basis.

(2) In a state that had ordered ISP-bound traffic to be bill-and-keep, but not other traffic, ISP-bound traffic would be compensable on a uniform basis with other traffic.

(3) In a state that had ordered ISP-bound, voice FX, or virtual FX traffic, but not all non-access traffic, to be exchanged as bill-and-keep, that traffic would be compensable as specified herein. (Access charges would not apply – see below.)

(4) In all other states, all ISP-bound and non-access traffic, including foreign exchange (including both ISP-bound FX and voice FX traffic) would be compensated at the rates set forth below.

CLEC-CLEC traffic exchanged under default bill-and-keep arrangements shall continue to be subject to such arrangements.

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[46] Parties disagree as to whether ISP-bound and FX traffic is classified as access or non-access under today's rules. For clarity, and without prejudice to parties' positions, ISP-bound traffic has been separately identified herein.

[47] For purposes of this Plan, FX and virtual FX traffic does not include Feature Group A traffic that LECs provide under their exchange access tariffs. Feature Group A traffic will instead to be subject to access charges and the rate rebalancing provisions of the Plan. For purposes of this exception, ISP-bound traffic is not considered Feature Group A traffic.

[48] Plan signatories are free to argue that these changes are supported by Section 251(b)(5), Section 201, or both. As such, ISP-bound traffic will continue to be identified as traffic greater than 3:1, however, the rebuttable presumption is eliminated.

b. Effect on Interconnection Agreements

These default provisions do not supplant voluntarily agreed upon interconnection agreements and default arrangements that exchange traffic at bill-and-keep.

(1) An agreement governing the exchange of ISP-bound traffic subject to the new market restriction in accordance with the FCC's Order 01-131 (Order on Remand and Report and Order, CC Dockets No. 96-98, 99-68) shall not be considered a "voluntarily agreed upon interconnection agreement" under this section.

(2) The provisions of this section do not abrogate the intercarrier compensation provisions of voluntary interconnection agreements (*i.e.*, interconnection agreements that were not subject to arbitration of provisions related to intercarrier compensation or change of law with respect to intercarrier compensation) executed after July 1, 2004, where those agreements do not permit modification for change of law.

The intercarrier compensation provisions of all other agreements, including those that do not contain change of law provisions, are superseded to the extent inconsistent with this section.

c. Growth Caps and New Market Restrictions

All growth caps/new market restrictions on ISP-bound traffic are eliminated and are replaced by the uniform rates and Out-of-Balance Protection mechanism described below.

d. Payment of Tandem Rate; Treatment of FX Traffic

Section 51.711(a)(3) of the Commission's rules is amended to eliminate payment of tandem rate.

Where a state has ordered access charges to be paid for FX traffic, that treatment would be superseded by the rates and rate transition outlined herein.

e. Rate Transition

Rate transition (absent a voluntary agreement pursuant to Section III.E.1.b., above, for different rates):

(1) Rate effective on July 1, 2005 (Step 1) is $.0003525.

(2) Rate effective on July 1, 2006 (Step 2) is $.000293.

(3) Rate effective on July 1, 2007 (Step 3) is $.000234.

(4) Rate effective on July 1, 2008 (Step 4) is $.000175.

f. Growth in Out-of-Balance Traffic

ILECs interconnecting with CLECs would have an additional bilateral protection against undue growth in out-of-balance traffic exchanged with each CLEC referred to as the ILEC/CLEC Out-of-Balance Safeguard Mechanism. This protection mechanism would be applied on a state-by-state basis between an ILEC and each CLEC with which ISP-bound and non-access traffic is exchanged.[49]

(1) At the start of Step 1, the total quantity of all traffic MOU covered by this section sent from the ILEC to the CLEC and the total quantity of all traffic MOU covered by this section sent from the CLEC to the ILEC will be collected for a time period referred to as the Baseline Period. For purposes of this out-of-balance protection mechanism, the Baseline Period will be determined as follows:

(a) For carriers whose volume of traffic exchanged with the ILEC in 2004 was not affected by implementation of acquisitions or assignments, the Baseline Period for traffic measurement purposes will be the twelve months ended December 31, 2004.

(b) For carriers whose volume of traffic exchanged with the ILEC in 2004 was affected by implementation of acquisitions or assignments, the Baseline Period for traffic measurement purposes will be fourth quarter 2004 MOUs, times four (to annualize). A carrier that elects to invoke this "acquisition exception" must identify all other carriers affected the implementation of an acquisition or assignment to the ILEC, for the purposes of properly initializing Baseline Period MOUs. The Baseline Period for other affected carriers will also be determined using fourth quarter 2004 MOUs, times four (to annualize).

(2) If the Baseline Period MOU traffic sent from the ILEC to the CLEC exceeds the quantity of MOU traffic sent from the CLEC to the ILEC, then an out-of balance calculation is performed by subtracting the CLEC-to-ILEC MOUs from the ILEC-to-CLEC MOUs. This out-of-balance calculation will establish the Baseline Out-of-Balance MOU Threshold.

(3) ILECs and CLECs will track the MOU traffic to which this plan applies during each of the following periods: 1) January 1, 2005 – December 31,

[49] Where a CLEC operates multiple entities within a state that have executed separate contracts with the ILEC, the out-of-balance protection applies to each contract.

2005; 2) January 1, 2006 – December 31, 2006; 3) January 1, 2007 – December 31, 2007; and 4) the period from January 1, 2008 – June 30, 2008, inclusive.

(4) ILECs and CLECs will calculate and track out-of-balance MOUs exchanged during each period listed above. During each of these periods, ILEC payments for out-of-balance MOUs will be calculated using the following applicable methodology:

(a) **Method 1:** If ILEC-to-CLEC MOUs measured during the period exceed Baseline Period ILEC-to-CLEC MOUs, ILEC payments for out-of-balance MOUs are equal to the lower of: (a) out-of-balance MOUs during that year; or (b) the Baseline Out-of-Balance MOU Threshold. All out-of-balance MOUs that exceed the Baseline Out-of-Balance Threshold will not be compensable.

(b) **Method 2:** If ILEC-to-CLEC MOUs measured during the year do not exceed Baseline Period ILEC-to-CLEC MOUs, ILEC payments for out-of-balance MOUs are equal to actual out-of-balance MOUs calculated for the year.

(c) The following examples are provided to demonstrate how ILEC payments for out-of-balance MOUs are determined under Method 1 and Method 2.

Assuming: Baseline Period MOUs: ILEC→CLEC = 18B MOUs

CLEC→ILEC = 8B MOUs

Baseline Out-of-Balance MOU Threshold = 10B

Example 1 January 2005 – December 2005

ILEC→CLEC = 20B MOUs CLEC→ILEC = 8B MOUs

Out-of-Balance MOUs for the period = 12B

ILEC pays on 10B out-of-balance MOUs

2B out-of-balance MOUs = non-compensable

Example 2 January 2006 – December 2006

ILEC→CLEC = 20B MOUs CLEC→ILEC = 12B MOUs

Out-of-Balance MOUs for the period = 8B

ILEC pays on 8B out-of-balance MOUs

Example 3 January 2005 – December 2005

ILEC→CLEC = 16B MOUs CLEC→ILEC = 4B MOUs

Out-of-Balance MOUs for the period = 12B

ILEC pays on 12B out-of-balance MOUs because ILEC→CLEC MOUs for the period ≤ ILEC→CLEC MOUs for Baseline Period

Example 4 January 2006 – December 2006

ILEC→CLEC = 18B MOUs CLEC→ILEC = 6B MOUs

Out-of-Balance MOUs for the period = 12B

ILEC pays on 12B out-of-balance MOUs because ILEC→CLEC MOUs for the period ≤ ILEC→CLEC MOUs for Baseline Period

Example 5 January 2007 – December 2007

ILEC→CLEC = 20B MOUs CLEC→ILEC = 4B MOUs

Out-of-Balance MOUs for the period = 16B ILEC pays on 10B out-of-balance MOUs 6B out-of-balance MOUs = non-compensable because ILEC→CLEC MOUs for the period > ILEC→CLEC MOUs for Baseline Period

(5) An ILEC shall compensate a CLEC for all ISP-bound and non-access traffic unless and until the Baseline Out-of-Balance MOU Threshold is reached for the Plan year, *i.e.*, ILECs will not prorate compensation based on estimates of expected out-of-balance MOUs.

(6) If a carrier acquires another carrier, or acquires all or a portion of another carrier's assets, or is designated by another carrier to serve that carrier's customers, the ILEC will make appropriate adjustments to the acquiring/designee carrier's, *i.e.*, the acquiring carrier's, Baseline Out-of-Balance Threshold and the selling/designor carrier's, *i.e.*, the selling carrier's Baseline Out-of-Balance Threshold upon receipt of:

(a) An estimate of the seller's Baseline Period ILEC-to-CLEC and CLEC-to-ILEC MOUs that will transfer to the acquiring carrier; and

(b) An agreement between the acquiring carrier and selling carrier attesting to the Baseline Period MOUs to be transferred.[50]

(7) Interposition of another carrier or aggregator between the terminating carrier and the originating carrier will not result in a higher intercarrier compensation obligation on the originating carrier than would have applied if traffic had not been sent to that terminating carrier through a third carrier.

g. Prospective Effect

These changes would apply prospectively from the date these provisions take effect, and are made without prejudice to any party's claim with respect to retrospective obligations.

2. Traffic Exchanged Between Wireless and Wireline Networks

With respect to traffic exchanged between CMRS providers and ILECs, at the outset of the Plan, traffic subject to reciprocal compensation in the wireless-to-wireline direction will be all traffic that at the beginning of the call originates and terminates within the same MTA. Traffic in the wireline-to-wireless direction will be subject to reciprocal compensation charges by wireless carriers at a symmetrical rate (and would not generate toll charges to the landline end user or require additional dialed digits) so long as the traffic was destined for a wireless NXX rated in the ILEC rate center or a rate center covered by EAS arrangements. ILECs agree to exchange such traffic directly or indirectly (*i.e.* through a tandem owned by a third party but not through an IXC). IntraLATA toll traffic originated by a wireline carrier and terminated to a wireless carrier will also be subject to reciprocal compensation charges by the wireless carrier when such traffic, at the beginning of the call, originates and terminates within the same MTA, and the ILEC has the toll retail relationship with the wireline caller.

With respect to traffic that is exchanged between a CMRS provider and a CRTC that is subject to reciprocal compensation, as of July 1, 2005, the rate for such traffic will be the lower of the rate established in interconnection agreements or analogous arrangement for the exchange of traffic between the carriers involved, or $0.0125 per minute. Any agreement that did not expire prior to the filing of the Plan shall be honored or extended as necessary to accommodate the transition described below.[51] If no rate has been

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[50] A rule should be written to require such information from the acquiring and selling carriers to facilitate its availability.

[51] For example, if an interconnection agreement specifies a reciprocal compensation rate at or below $0.0125 per minute, and that agreement expires, then that rate shall remain in effect until the default rate declines to a level below the rate the agreement specifies, at which time, the reciprocal compensation rate shall decline in accord with the default. If the interconnection agreement specifies a reciprocal compensation rate

otherwise established herein, then the rate on July 1, 2005 shall be $0.0125 per minute, which includes all necessary transport and switching.[52] The default rate, once established, will thereafter decrease as follows:

- Effective July 1, 2006, to $0.008392/minute.
- Effective July 1, 2007, to $0.004283/minute.
- Effective July 1, 2008, to the uniform termination rate specified in Section III.C.3.a.

In addition, beginning July 1, 2007, a CRTC may charge the CRTC Terminating Transport Charge pursuant to Section II.C.3.b.

3. All Other Non-Access Traffic

The default rates for the exchange of all other non-access traffic (including ILEC-ILEC) not governed by Section III.E.1. or III.E.2., above, will be reduced to no higher than following levels:

- Effective July 1, 2005, to 75 percent of the difference between rate in effect on June 30, 2005; and $0.000175, plus $0.000175.
- Effective July 1, 2006, to two-thirds of the difference between the rate in effect on June 30, 2006; and $0.000175, plus $.000175.
- Effective July 1, 2007, to 50 percent of the difference between the rate in effect on June 30, 2007; and $0.000175, plus $.000175.

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above $0.0125 per minute, then that rate shall continue in effect until July 1, 2005, at which time the rate shall decline to $0.0125 per minute and proceed in accordance with the decline of the default rate.

[52] If there is no agreed-on rate (*i.e.*, no interconnection agreement, settlement agreement or other mutually agreed upon contractual obligation between the parties), and the RLEC has issued bills/invoices to the CMRS carrier but those invoices have been disputed based on rate levels or the lack of an ICA, the $0.0125 rate would be applied to those invoices and the CMRS carrier would compensate the RLEC at that rate level. The rate would be applied to the existing traffic in a reciprocal manner with an assumed balance of traffic factor of 70/30 (mobile to landline). If no bills have been rendered as of (a date certain), the parties will treat the traffic exchanged prior to that date as having been exchanged on a bill and keep basis and no compensation will be owed by either party.

- Effective July 1, 2007, to the uniform termination rate specified in Section III.C.3.a.

F. ILEC Revenue Recovery for Reductions in Switched Access Services Transitioning to Bill and Keep, Adjustment of Access Transit Rates to Parity, Access-Based Changes in ILEC Interconnection Transport, and, for Covered Rural Telephone Companies, Changes in Net InterILEC Settlements/Reciprocal Compensation

1. Price Cap LECs

For a price cap LEC, the following carrier compensation revenues will be replaced by recovery from its end user customers, if necessary, from additional universal service support, and, for CRTCs, from a continued CRTC Terminating Transport Charges: (i) revenues from access services being transitioned to "bill-and-keep" over the full course of the Plan; (ii) any access revenue reduction from transition of the transit rates to parity described in Section III.B; (iii) any change in access revenues from changes to interconnection transport described in Section III.D.; and, (iv) for CRTCs, net changes in revenues from interILEC settlements and reciprocal compensation. Changes to the recovery methodology are described below.

a. Adjusted Access Revenue Shift Per Line

The Adjusted Access Revenue Shift Per Line will be calculated by applying a transition factor to the Total Access Revenue Shift Per Line. The Total Access Revenue Shift Per Line will be a constant (subject to a one-time possible restatement by price cap CRTCs at the end of Step 2 of the transition, described above), determined in two steps (described assuming Step 1 is the Tariff Year beginning July 1, 2005, with the dates and Base Periods below advanced if Step 1 begins in another tariff year). In the first step, the Total Access Revenue Shift is determined by taking the amount of interstate and intrastate switched access revenue calculated by multiplying the June 30, 2005 rates for switched access services[53] (after reversing the effects of any allocation of Pooled Local Switching Revenue pooling under Section 61.48(m)(2)), by 2004 Base Period demand, including all demand under contract tariffs or Phase II pricing flexibility, any anticipated expense associated with the use or replacement of another carrier's facilities between the ILEC's End Office and the Access Tandem that, at the outset of the plan, are used in lieu of the ILEC's network transport, and, for a CRTC, Net Settlements/Reciprocal Compensation Revenue as defined below, and then removing the following anticipated revenue:

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[53] The switched access rates in effect on June 30, 2005 shall be used, provided that the ILEC has made no changes to those rates in the 90-day period leading up to June 30, 2005. If changes to any such rate have been made during that period, then the simple average of the rate in effect on each day during such 90-day period shall be used instead.

- For non-CRTCs, revenue from interconnection transport and Tandem Transit Services (both based on Base Period 2004 switched interstate and intrastate access demand and, for Tandem Transit Services, at the lower of interstate or intrastate June 30, 2005 switched access rates, and, for interconnection transport rates, at the rates set forth Section II.A.3.c., above);

- For CRTCs, revenue from Interconnection Transport (not including the CRTC Terminating Transport Charges) and Tandem Transit Services (both based on Base Period 2004 switched interstate and intrastate access demand, for transit, at the lower of interstate or intrastate June 30, 2005 switched access rates, and, for interconnection transport rates, at the rates set forth Section II.A.3.c., above).

- For CRTCs, revenue from CRTC Terminating Transport Charges. This will be calculated based on Base Period 2004 terminating access demand, and maximum rates that are consistent with that CRTC's Terminating Transport Charge Cap and other limits on CRTC Terminating Transport Charges in Section III.C.3.b.

Second, that total revenue amount of Total Access Revenue Shift is divided by 2004 Base Period End User Line Demand (as defined below) to develop a revenue per line amount (Total Access Revenue Shift Per Line).

For purposes of these calculations:

(i) "Net Settlements/Reciprocal Compensation Revenue" is determined by taking the net amount of such settlements and reciprocal compensation revenue less settlement and reciprocal compensation expenses, based on 2004 Base Period Demand and rates, divided by Base Period 2004 Lines (assuming Step 1 is the Tariff Year starting July 1, 2005).

(ii) "2004 Base Period End User Line Demand" shall be determined using line equivalency for Centrex, ISDN, derived channel and new services, according to their standard application (*i.e.*, under today's rules, ISDN-PRI=5, Centrex=1) on the day prior to the start of Step 1, and including all demand under contract tariffs.

The Adjusted Access Revenue Shift Per Line in each year will be:

(i) In Step 1 (effective July 1, 2005) 25 percent of the Total Access Revenue Shift Per Line.

(ii) In Step 2 (effective July 1, 2006) 50 percent of the Total Access Revenue Shift Per Line.

(iii) In Step 3 (effective July 1, 2007) 75 percent of the Total Access Revenue Shift Per Line, except that if the switched access shift due to the flash-cut of transport (calculated as June 30, 2005 transport rates times Base Period

2004 transport demand) (the "Transport Access Shift") exceeds 25 percent of the Total Access Shift, then the percentage factor will be (50 percent + (Transport Access Shift divided by one fourth of the Total Access Shift* 25) percent). For example, if the Step 3 Transport Access Shift is $60 million, and the Total Access Shift is $200 million, then the Step 3 Factor used to calculate the Step 3 Adjusted Access Shift Per Line will be 50 percent + ($60M/$200M/4)*25 percent, or 80 percent.

(iv) In Step 4 (effective July 1, 2008) 100 percent of the Total Access Revenue Shift Per Line.

Low End Adjustment Mechanism for Price-Cap CRTCs:

A price cap CRTC, in a study area where it has not elected pricing flexibility, may apply for an increase in its Adjusted Access Revenue Shift Per Line for a given year if, at the end of a tariff period, its interstate switched access services rate of return for that period drops more than 100 basis points below the authorized level of 11.25 percent, *i.e.*, below 10.25 percent. A carrier seeking such relief must submit a cost study to the Commission demonstrating that one or more of its study areas earned less than 10.25 percent for a given year. Upon such demonstration, this CRTC would be entitled to adjust its Adjusted Access Revenue Shift Per Line for the following year to bring the prior year's earnings of the affected study area up to 10.25 percent. That adjustment would be reversed in subsequent years. If the study area is part of a multi-study area filing entity, and if that study area had access rate reductions, for that year, that were greater than 25 percent of the Total Access Shift for that study area, the LFAM calculation will be made as if that study area had reduced, in that year, access rates by only 25 percent.

The cost study's revenue calculation must include the maximum amount of SLC revenues permitted by this Plan, irrespective of whether the LEC increased its SLC rate to maximum levels or exercised pricing flexibility.

The accounting for these payments will provide that such payments will not increase the ILEC's interstate earnings for the period in which they are received. Any claim for an adjustment in a subsequent year would have to be supported by a new cost study (*i.e.*, each tariff period is treated independently).

b. Average Permitted Revenue Recovery Per Line and Maximum Line Recovery Permitted Revenue.

Average Permitted Revenue Recovery Per Line is the revenue per line amount used to derive the ILEC's Study Area Universal Service Support and the Price Cap End User Charge Revenue Limit. Average Permitted Revenue Recovery Per Line is determined as follows. The Average CMT Per Line (adjusted to remove amounts recovered in PICC and CCL as of June 30, 2005, and IAS support) will be added to the Adjusted Access

Revenue Shift Per Line. The following amounts will then be subtracted to yield the Average Permitted Revenue Per Line:

- For non-CRTC price cap LECs, during Steps 4 through 6 (July 1, 2008 through June 30, 2011), an amount calculated by dividing revenue from the Uniform Termination Charge for access minutes (calculated by multiplying Base Period 2004 terminating access minutes (including demand under contracts[54]) by $.000175 in Steps 4 and 5 and $.0000875 in Step 6) by Base Period 2004 lines.

- For CRTC price cap LECs, during Steps 4 through 6 (July 1, 2008 through June 30, 2011), an amount calculated by dividing revenue from the Uniform Termination Charge (calculated by multiplying base period terminating minutes for all traffic (including demand under contracts) in the prior calendar year by $.000175 in Steps 4 and 5 and $.0000875 in Step 6) by base period lines in the prior calendar year.

- In addition, beginning July 1, 2007, a CRTC will also subtract the CRTC Terminating Transport Charge times (Base Period 2006 total terminating demand (including demand under contracts) less Base Period 2004 terminating access demand (including demand under contracts or Phase II pricing flexibility)), divided by base period lines in the prior calendar year.

Maximum Line Recovery Permitted Revenue is an "as if" calculation used to derive the ILEC Study Area Universal Service Support, and will be determined as follows. Average Permitted Revenue Recovery Per Line will then be multiplied by the applicable Base Period end user demand, including under price caps and contracts, to yield Maximum Line Recovery Permitted Revenue (assuming a July 1, 2005 start date, this will be 2004 Base Period Demand for Step 1, 2005 for Step 2, 2006 for Step 3 and 2007 for Step 4).

In calculating Average Permitted Revenue Per Line and Maximum Line Recovery Permitted Revenue, the ILEC equivalency ratios for Centrex, ISDN, derived channels and new services will be the ratios in effect as of June 30, 2005.

c. Calculation of ILEC Recovery from the New Support Mechanisms Established under this Plan.

(1) ILEC Study Area Support Amount

This amount is calculated by taking the Maximum Line Recovery Permitted Revenue, as determined pursuant to Section III.F.1.b., above, and subtracting the amounts calculated pursuant to the three bullets below for each study area. These calculations pursuant to the

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[54] If the Commission grants Phase II pricing flexibility for End Office switching, that terminating access demand would also be included throughout this subsection.

bullets below would be done on an as-if basis, assuming standard application of end-user charges (*i.e.*, equivalencies as of June 30, 2005, assuming Step 1 begins July 1, 2005). This approach would assure that each carrier's individual end user pricing decisions, including taking advantage of the flexibility described in Section III.J., below, would neither increase nor decrease a carrier's USF support from existing mechanisms or the new mechanisms established under this Plan.

Under the calculation described here, the Adjusted Access Revenue Shift not recovered through Uniform Termination Charges or, for CRTCs, CRTC Terminating Transport Charges will be recovered first from the SLC and then, if necessary as a result of the SLC caps, then from the new support mechanisms established under this Plan.

- For primary residential and single line business lines, the lower of Average Permitted Revenue Recovery Per Line, the Mass Market Per Line Cap on the SLC, as defined in Section III.G.1. or III.H.1., as applicable, or, in Steps 1 through 4, an amount equal to the PR/SLB SLC rate in effect on June 30, 2005 plus $0.75 in Step 1, $1.50 in Step 2, $2.50 in Step 3 (except as provided, below), and $3.50 in Step 4, times primary residential and single line business base period lines (including any line demand for Lifeline or under contracts[55]);

- For non-primary residential lines, the lower of Average Permitted Revenue Recovery Per Line, the Mass Market Per Line Cap on the SLC, as defined in Section III.G.2. or III.H.2., as applicable, or, in Steps 1 through 4, an amount equal to the non-primary residential SLC rate in effect on June 30, 2005 plus $0.75 in Step 1, $1.50 in Step 2, $2.50 in Step 3 (except as provided below), and $3.50 in Step 4, times non-primary residential base period lines (including any line demand under contracts);

- For multiline business lines, the greater of

  (i) The June 30, 2005 MLB SLC rate; or

  (ii) The lower of Average Permitted Revenue Recovery Per Line, the Enterprise Per Line Cap on the SLC, as defined in Section III.G.3. or III.H.3., as applicable, or, in Steps 1 through 4, an amount equal to the multiline business SLC rate in effect on June 30, 2005 plus $0.75 in Step 1, $1.50 in Step 2, $2.50 in Step 3 (except as provided below), and $3.50 in Step 4

  multiplied by multiline business base period lines (including any line demand under contracts).

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[55] If the Commission grants Phase II pricing flexibility for end office switching, that terminating access demand would also be included throughout this subsection.

In each of the above calculations, if in Step 3, the switched access shift due to the flash-cut of transport results in the Step 3 Factor used to calculate Adjusted Access Revenue Shift Per Line (see Section III.F.1.a., above) exceeding 75 percent, then in lieu of the limit set by the June 30, 2005 SLC rate in a category plus $2.50, that limit will be the June 30, 2005 rate plus $1.50 + ((actual Step 3 Factor-50%)/25%. * $1.00). (For example, if the Step 3 Factor is 80 percent, the Step 3 change in the limit would be $1.20 (=$1.00 * (80%-50%)/25%), for a total limit of $2.70 above the June 30, 2005 SLC rate).

(2) Distribution of the ILEC Study Area Support Amount from the New Mechanisms Established Under this Plan

The ILEC Study Area Support Amount from the new support mechanisms established under this Plan will be distributed according to Section IV., below.

d. Calculation of Price Cap End User Charge Revenue Limit

The Price Cap End User Charge Revenue Limit will be established by adding the following amounts:

- For primary residential and single line business lines, the lower of Average Permitted Revenue Recovery Per Line, the Mass Market Per Line Cap on the SLC, as defined in Section III.G.1. or III.H.1., as applicable, or, in Steps 1 through 4, an amount equal to the PR/SLB SLC rate in effect on June 30, 2005 plus $0.75 in Step 1, $1.50 in Step 2, $2.50 in Step 3, and $3.50 in Step 4, times primary residential and single line business base period price cap lines (including any line demand for Lifeline, but not demand under contracts[56]);

- For non-primary residential lines, the lower of Average Permitted Revenue Recovery Per Line, the Mass Market Per Line Cap on the SLC, as defined in Section III.G.2. or III.H.2., as applicable, in Steps 1 through 4, or, in Steps 1 through 4, an amount equal to the non-primary residential SLC rate in effect on June 30, 2005 plus $0.75 in Step 1, $1.50 in Step 2, $2.50 in Step 3, and $3.50 in Step 4, times non-primary residential base period price cap lines (*i.e.*, not including demand under contracts);

- For multiline business lines, the greater of

  (i) The June 30, 2005 MLB SLC rate; or

[56] If the Commission grants Phase II pricing flexibility for end office switching, that terminating access demand would also be excluded throughout this subsection.

(ii) The lower of Average Permitted Revenue Recovery Per Line, the Enterprise Per Line Cap on the SLC, as defined in Section III.G.3. or III.H.3., as applicable, or, in Steps 1 through 4, an amount equal to the multiline business SLC rate in effect on June 30, 2005 plus $0.75 in Step 1, $1.50 in Step 2, $2.50 in Step 3, and $3.50 in Step 4,

times multiline business base period price cap lines (*i.e.*, not including any demand under contracts).[57]

In each of the above calculations, if in Step 3, the switched access shift due to the flash-cut of transport results in the Step 3 Factor used to calculate Adjusted Access Shift Per Line (see Section I*.E.*1.3).c, above) exceeding 75 percent, then in lieu of the limit set by the June 30, 2005 SLC rate in a category plus $2.50, that limit will be the June 30, 2005 rate plus $1.50 + ((actual Step 3 Factor-50%)/25%. * $1.00). (For example, if the Step 3 Factor is 80 percent, the Step 3 change in the limit would be $1.20 (=$1.00 * (80%-50%)/25%), for a total limit of $2.70 above the June 30, 2005 SLC rate).

If an ILEC receives pricing flexibility relief for end user charges after the start of Step 1 and prior to July 1, 2008, the carrier must recalculate the Price Cap End User Charge Revenue Limit to reflect the removal of the revenue associated with the services receiving relief, in the same manner as under existing rules.

2. Rate-of-Return LECs

a. Revenue Recovery

For a Rate-of-Return LEC, rate-of-return principles using historical (*i.e.*, embedded) costs will continue to be used to determine the amount of interstate revenue recovery, and changes in the interstate switched traffic sensitive ratebase will be used as a proxy for change in intrastate costs recovered today through intrastate access charges. CRTCs will also recover the net settlements and reciprocal compensation that they receive as of June 30, 2005.

To offset the changes in access and reciprocal compensation rates under this plan, a rate-of-return LEC will recover:

- Reductions in interstate access revenues due to the changes in interstate access rates under this plan, as compared with an interstate switched access (traffic sensitive) revenue requirement calculated using an 11.25 percent rate-of-return.

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[57] A Price Cap LEC will not be required to increase its MLB/Enterprise SLC "as if" revenue per line above its June 30, 2005 study area average SLC levels until the maximum rates that can be charged for Primary Residential/SLB/Mass Market SLCs under all applicable limits herein exceeds the June 30, 2005 MLB SLC rate.

- Reductions in intrastate access revenues from their June 30, 2005 levels, adjusted after Year 1 in proportion to changes in the interstate switched traffic sensitive revenue requirement. Thus, as a proxy for changes in intrastate revenue requirements, the aggregate amount of intrastate access revenues as of June 30, 2005 will increase or decrease as the interstate switched traffic sensitive revenue requirement for the study area increases or decreases.

- For CRTCs, reductions in net settlements[58]/reciprocal compensation revenues, not included in access reductions, received from their June 30, 2005 levels (which is not less than $0).

To calculate the amount of additional revenue to be recovered through the changes to the SLC and the new support mechanisms proposed under this Plan, a Total Revenue Recovery Amount will be calculated by determining the Study Area Revenue Requirements and subtracting certain revenue sources. Study Area Revenue Requirements will be determined by adding together the following:

- The interstate switched traffic sensitive revenue requirement, calculated using an 11.25 percent rate-of-return;

- The intrastate switched access revenues as of June 30, 2005 (calculated at the weighted daily average rates in effect for the 90 days prior to June 30, 2005 and 2004 demand), adjusted, after Step 1, in proportion to the change in the interstate switched traffic sensitive revenue requirement from the previous year (*i.e.*, for Step 2, the change from Year 1 to Year 2)("the Interstate Revenue Requirement Adjustment Factor");

- For CRTCs, the amount of net settlements/reciprocal compensation revenue as of June 30, 2005 (calculated at the weighted daily average rates in effect for the 90 days prior to June 30, 2005 and 2004 demand), to the extent not included in the interstate and intrastate access rates and revenues; and

- The interstate common line revenue requirement.

To determine the Total Revenue Recovery Amount, the following will be subtracted from the Study Area Revenue Requirements:

- From July 1, 2005 to June 30, 2008 (Steps 1-3), interstate switched traffic sensitive access revenues (including any voluntary reductions) to be received during that tariff year;

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[58] These settlements are intercarrier compensation payments between incumbent LECs.

- From July 1, 2005 to June 30, 2008 (Steps 1-3), intrastate switched traffic sensitive access revenues (including any voluntary reductions) to be received during that tariff year;

- From July 1, 2005 to June 30, 2008 (Steps 1-3), for CRTCs, net settlements/reciprocal compensation revenue to be received during that tariff year (but not less than $0), not otherwise included;

- Beginning July 1, 2007 (coincident with transport "flip"), all revenues from interconnection transport and Tandem Transit Service not otherwise included;

- Beginning July 1, 2007, for CRTCs, all revenues from CRTC Terminating Transport Charges. For the purposes of this calculation, CRTC Terminating Transport revenues shall be calculated as the maximum that could be generated from the CRTC Terminating Transport Charge consistent with the CRTC's Terminating Transport Charge Cap, using all demand potentially subject to the such charges (regardless of whether such charges are actually assessed, *i.e.* including voluntary reductions);

- From July 1, 2008 to June 30, 2011 (Steps 4-6), for CRTCs, revenues from the Uniform Termination Charges. For non-CRTCs, from July 1, 2008 to June 30, 2011 (Steps 4-6), revenues from Uniform Termination Charges as applied to Base Year 2007 terminating access minutes;

- Revenues from charges for line port costs in excess of basic analog service and special access surcharges;

- ICLS support; and

- LSS support.

The ILEC Study Area Support Amount for a rate-of-return study area will be calculated by taking the Total Revenue Recovery Amount, less the Maximum Permitted Total End User Revenue, determined according to subsection III.F.b., below, including any voluntary reductions. The effect of these rules is to recover the shifted access revenues first from CRTC Terminating Transport Charges (beginning July 1, 2007), then from the SLCs, and then from the new support mechanisms established by this plan.

At the end of a given year, the amount of support received will be subject to a true-up. To accomplish this true-up, Total Revenues Recovered will be calculated by adding together:

- SLC revenues;

- SLC voluntary reductions;

- TNRM/ICRM support distributed during the year under this Plan;
- From July 1, 2005 to June 30, 2008 (Steps 1-3), interstate switched traffic sensitive access revenues (including any voluntary reductions) to be received during that tariff year;
- From July 1, 2005 to June 30, 2008 (Steps 1-3), intrastate switched traffic sensitive access revenues (including any voluntary reductions) to be received during that tariff year;
- From July 1, 2005 to June 30, 2008 (Steps 1-3), for CRTCs, net settlements/reciprocal compensation revenue to be received during that tariff year (but not less than $0), not otherwise included;
- Beginning July 1, 2007 (coincident with transport "flip"), all revenues from interconnection transport and transit not otherwise included;
- Beginning July 1, 2007, for CRTCs, all revenues from CRTC Terminating Transport Charges. For the purposes of this calculation, CRTC Terminating Transport revenues shall be calculated as the maximum that could be generated from the terminating transport charge consistent with the CRTC's Terminating Transport Charge Cap using all demand potentially subject to the such charges (regardless of whether such charges are actually assessed, *i.e.* including voluntary reductions);
- From July 1, 2008 to June 30, 2011 (Steps 4-6), for CRTCs, revenues from the Uniform Termination Charge. For non-CRTCs, from July 1, 2008 to June 30, 2011 (Steps 4-6), revenues from Uniform Termination Charge as applied to Base Year 2007 terminating access minutes;
- Revenues from charges for line port costs in excess of basic analog service and special access surcharges;
- ICLS support; and
- LSS support.

A true-up will then be made by comparing the Total Revenue Recovery Amount with the Total Revenues Recovered, adjusting Total Revenue Recovery Amount to reflect actual interstate switched traffic sensitive revenue requirement for the year (which also adjusts the revenue requirement associated with June 30, 2005 intrastate switched access charges).

Support under this Plan's mechanisms (*i.e.*, ICRM and TNRM) will be increased or decreased to eliminate the difference between the adjusted Total Revenue Recovery Amount and Total Revenues Recovered.

The following shall be treated as non-regulated investment, expenses and revenues for the purposes of determining the interstate switched access revenue requirement and the ICRM/TNRM calculation for rate-of-return carriers: (1) All investment in, expenses incurred with respect to, and revenues generated from tandems and associated transport installed or constructed after July 1, 2005 outside of the rate-of-return incumbent LEC's contiguous service area (in a non-LATA state, local calling area); and (2) all investment in facilities to the extent (but solely to the extent) they are used to provide service to an end user outside the ILEC's study area, and any expenses incurred and revenue generated with respect to such service. Investment in, expenses incurred with respect to, and revenues generated from transport and tandems within a rate-of-return incumbent LEC's contiguous service area (in a non-LATA state, local calling area), will continue to be treated as regulated.

Each rate-of-return LEC, or its agent on behalf of the rate-of-return ILEC, shall file with the Administrator cost support justifying its determination of its interstate switched access revenue requirement, interstate common line revenue requirement, intrastate access revenues as of June 30, 2005, and net settlements/reciprocal compensation revenue as of June 30, 2005. In addition, each rate-of-return LEC, or its agent on behalf of the rate-of-return ILEC, shall file with the Administrator all data necessary for the Administrator to compute the ILEC Study Area Support Amount. The Administrator shall make this information publicly available in the same manner as if the rate-of-return LEC had filed a tariff pursuant to Part 61, subject, when appropriate, to the Commission's rules governing confidential treatment.

With respect to its interstate revenue requirement, an average schedule incumbent LEC, or its agent, need only provide the Administrator with the data necessary to verify the computation of its interstate common line and interstate switched traffic sensitive revenue requirements pursuant to the average schedule formulas approved by the Commission. Nothing in the Plan alters the Commission's rules for determining an ILEC's interstate revenue requirements under the average schedule.

Any party seeking to challenge particular carrier's determination of its interstate switched access revenue requirement, interstate common line revenue requirement, intrastate access revenues as of June 30, 2005 (Step 1 only), and net settlements/reciprocal compensation revenue as of June 30, 2005 (Step 1 only) may do so within 45 days of the date the Administrator makes such justifications publicly available. In the event the Commission determines that the rate-of-return LEC's statement of its interstate switched access revenue requirement, its interstate common line revenue requirement, intrastate access revenues as of June 30, 2005 (Step 1 only), or net settlements/reciprocal compensation revenue as of June 30, 2005 (Step 1 only) is not just and reasonable, the TNRM support shall be recalculated as of the start of the period for which the justification was initially filed.

Nothing herein precludes a company that participates in the average schedule from continuing to do so, or electing to do so in the future.

b. End User Revenue Recovery

Maximum Permitted Total End User Revenue will be determined by multiplying the Maximum Permitted Averaged End User Charge for each customer class in the study area by the projected line demand for that tariff year. The actual SLC rates may be geographically deaveraged by zone according to the existing Section 69.104(r) of the Commission's rules, 47 C.F.R. § 69.104(r), but otherwise may not exceed the Maximum Permitted Averaged End User Charge.

The Maximum Permitted Averaged End User Charge for each customer class will be determined as follows:

(i) For Residential/Single Line Business lines, the lesser of: (i) Total Revenue Recovery Amount Per Line; (ii) for non-CRTCs, the maximum level consistent with the Average End User Rate Increase Limit; or (iv) the Nationwide PR/SLB SLC Cap or Mass Market Cap, as applicable.

(ii) For Multiline Business lines, the greater of:

a. The multiline business SLC rate in effect on June 30, 2005; or

b. The lesser of: (i) Total Revenue Recovery Amount Per Line; (ii) for non-CRTCs, the maximum level consistent with the Effective SLC Increase Limit; (iii) for non-CRTCs, the maximum level consistent with the Average End User Rate Increase Limit; or (iv) the Nationwide Multiline Business SLC Cap or Enterprise Cap, as applicable.

Total Revenue Recovery Amount Per Line is calculated by dividing the Total Revenue Recovery Amount by total projected line demand for all customer classes, using equivalencies as specified in the Commission's rules.

c. Adjustment for Impact on Special Access Revenues

For rate-of-return CRTCs, the ICF Plan provides for a "Mid-Course Correction" applicable to special access, as set forth below.

A Mid-Course Adjustment to the Total Revenue Recovery Amount would be made if the rate-of-return CRTC demonstrates that:

(1) Actual demand for special access offerings is significantly less after the Plan takes effect; and

(2) The ILEC has not been able to find alternative uses for its special access facilities (but the ILEC need not show an inability to find alternative uses if the facilities were reused as a result of the ICF Plan itself, such as to accommodate the increased switched access demand – in that case, the

loss of revenues from those special access facilities could be included in the proposed Mid-Course Adjustment); and

(3) The decline in demand for special access was not due to losses to competitors.

This Mid-Course Correction would permit carriers to recoup under-recovered access revenues from the Effective Date of the Plan through the date of the filing.

The Commission shall give public notice of the request and seek comment on it. Any carrier may intervene in this proceeding and present its position on the request.

G. SLC Cap Transition and Increase Limits for Non-CRTCs

The nationwide cap on non-CRTC SLCs will increase as follows, and will be subject to annual increase limits as set forth below.

1. Nationwide PR/SLB SLC Cap Transition

For price cap carriers, effective July 1, 2005, Primary Residential and Single Line Business Line Nationwide SLC Cap and the Non-Primary Residential Line Nationwide SLC Cap would be merged to create the Mass Market Per Line Cap and would change according to the schedule set forth below. For non-price cap carriers, the Residential and Single Line Business Line Nationwide SLC Cap would change according to that same schedule.

(a) In Step 1 (effective July 1, 2005) the primary residential and single line business Per Line Cap for non-price cap carriers or, for price cap carriers, the Mass Market Per Line Cap will increase from $6.50 to $7.25.

(b) In Step 2 (effective July 1, 2006) the primary residential and single line business Per Line Cap for non-price cap carriers or, for price cap carriers, the Mass Market Per Line cap will increase from $7.25 to $8.00.

(c) In Step 3 (effective July 1, 2007) the primary residential and single line business Per Line Cap for non-price cap carriers or, for price cap carriers, the Mass Market Per Line cap will increase from $8.00 to $9.00.

If in Step 3, the switched access shift due to the flash-cut of transport results in the Step 3 Factor used to calculate Adjusted Access Shift Per Line (see Section III.F.1.a., above) exceeding 75 percent, then the Step 3 Nationwide Cap will be $8.00 + ((actual Step 3 Factor-50%)/25% * $1.00). For example, if the Step 3 Factor is 80 percent, the $1.00 cap increase in Step 3 would be factored up to $1.20 (=$1.00 * (80%-50%)/25%), for a total cap of $9.20.

d) In Step 4 (effective July 1, 2008) the primary residential and single line business Per Line Cap for non-price cap carriers or, for price cap carriers, the Mass Market Per Line cap will increase to $10.00.

e) On July 1, 2009 and annually thereafter, the $10.00 cap shall be adjusted at the rate of inflation, as measured by the annual change in GDP-CPI.

2. Nationwide Non-Primary Residential SLC Cap

For price cap carriers, effective July 1, 2005, this cap would be merged with the Mass Market Per Line Cap and increase pursuant to Section III.G.1., above.

3. Nationwide Multiline Business SLC Cap

For price cap carriers, this nationwide cap would be renamed the Enterprise Per Line Cap and apply to the Enterprise Service Category as discussed in Section III.J. of this Plan. The multi-line business (MLB) Per Line Cap for non-price cap carriers or, for price cap carriers, the Enterprise Per Line Cap will remain at its June 30, 2005 level (*i.e.*, $9.20) until the start of Step 4 (July 1, 2008), at which time the MLB cap for non-price cap carriers or, for price cap carriers, the Enterprise Per Line Cap will be the same as the cap for the residential and single-line business SLC for non-price cap carriers or, for price cap carriers, the Mass Market Per Line Cap.

4. Average End User Rate Increase Limit

In addition, within a study area, the change per line in all SLC rates within a service category (*i.e.*, Mass Market or Enterprise) under price caps from their June 30, 2005 levels (*i.e.*, applicable Step 1-4 rate minus June 30, 2005 rate in each customer class), averaged across all lines under price caps and customer classes within that service category, may not exceed: in Step 1, $0.75; in Step 2, $1.50, 2005 average level for SLCs under price caps; in Step 3, $2.50, except as below; and in Step 4, $3.50. This limit on the amount that SLCs may, on average in each service category, increase is the Average End User Rate Increase Limit.

For rate-of-return non-CRTCs, the change per line in all SLC rates within respectively, Residential/Single Line Business and Multiline Business Lines, from their June 30, 2005 levels (*i.e.*, applicable Step 1-4 rate minus June 30, 2005 rate in each customer class), averaged across all lines and customer classes within that customer class group (Residential/Single Line Business or Multiline Business), may not exceed: in Step 1, $0.75; in Step 2, $1.50; in Step 3, $2.50, except as below; and in Step 4, $3.50.

If in Step 3, the switched access shift due to the flash-cut of transport results in the Step 3 Factor used to calculate Adjusted Access Shift Per Line (see Section III.F.1.a, above) exceeding 75 percent, then the Step 3 Average End User Rate Increase Limit will be $1.50 + ((actual Step 3 Factor-50%)/25%. * $1.00). (For example, if the Step 3 Factor is 80 percent, the $1.00 change in the Step 3 Average End User Rate Increase Limit would

be factored up to $1.20 (=$1.00 * (80%-50%)/25%), for a total increase limit of $2.70). After Step 4, the only limit is the $10.00 Nationwide Cap.

5. Effective End User Rate Increase Limit (for a specific study area or zone)

In any location where the current end user rate is below the current residential and single-line business ($6.50) cap, the rate under price caps for any end user in that location may be no more than: in Step 1, $0.95 above the SLC rate as of June 30, 2005; in Step 2, no more than $1.90 above the SLC rate as of June 30, 2005; in Step 3, no more than $3.10 above the SLC rate as of June 30, 2005; and, in Step 4, no more than $4.30 above the SLC rate as of June 30, 2005. If in Step 3, the switched access shift due to the flash-cut of transport results in the Step 3 Factor used to calculate Adjusted Access Shift Per Line (see Section III.F.1.a., above) exceeding 75 percent, then the Step 3 Increase Limit will be $1.90 + ((actual Step 3 Factor-50%)/25%. * $1.20). (For example, if the Step 3 Factor is 80 percent, the $1.20 change in the Step 3 increase limit would be factored up to $1.44 (=$1.25 * (80%-50%)/25%), for a total increase limit of $3.44 above the rate in effect as of June 30, 2005). After Step 4, the only limit is the $10.00 Nationwide Cap.

H. SLC Cap Transition for CRTCs

The nationwide caps on CRTC SLCs will increase as follows, and will be subject to annual increase limits as set forth below.

1. Nationwide PR/SLB SLC Cap Transition

For price cap carriers, effective July 1, 2005, Primary Residential and Single Line Business Line Nationwide SLC Cap and the Non-Primary Residential Line Nationwide SLC Cap would be merged to create the Mass Market Per Line Cap and would change according to the schedule set forth below. For non-price cap carriers, the Residential and Single Line Business Line Nationwide SLC Cap would change according to that same schedule.

(a) In Step 1 (effective July 1, 2005), for non-price cap carriers, the residential and single line business Per Line Cap and, for price cap carriers, the Mass Market Per Line Cap, will increase from $6.50 to $7.00.

(b) In Step 2 (effective July 1, 2006), for non-price cap carriers, the residential and single line business Per Line Cap and, for price cap carriers, the Mass Market Per Line cap will increase from $7.00 to $7.50.

(c) In Step 3 (effective July 1, 2007), for non-price cap carriers, the residential and single line business Per Line Cap and, for price cap carriers, the Mass Market Per Line cap will increase from $7.50 to $8.00.

(d) In Step 4 (effective July 1, 2008), for non-price cap carriers, the residential and single line business Per Line Cap and, for price cap carriers, the Mass Market Per Line cap will increase to $8.50.

(e) In Step 5 (effective July 1, 2009), for non-price cap carriers, the residential and single line business Per Line Cap and, for price cap carriers, the Mass Market Per Line cap will increase to $9.00.

(f) In Step 6 (effective July 1, 2010), the CRTC shall have the option to increase, for non-price cap carriers, the residential and single line business Per Line Cap or, for price cap carriers, the Mass Market Per Line cap, to $9.50.

(g) In Step 7 (effective July 1, 2011), the CRTC shall have the option to increase, for non-price cap carriers, the residential and single line business Per Line Cap or, for price cap carriers, the Mass Market Per Line cap, to $10.00.

2. Nationwide Non-Primary Residential SLC Cap

For price cap carriers, effective July 1, 2005, this cap would be merged with the Mass Market Per Line Cap and increase pursuant to Section III.H.1., above.

3. Nationwide Multiline Business SLC Cap

For price cap carriers, this nationwide cap would be renamed the Enterprise Per Line Cap and apply to the Enterprise Service Category as discussed in Section H of this Plan. The multi-line business (MLB) Per Line Cap for non-price cap carriers or, for price cap carriers, the Enterprise Per Line Cap will remain at its June 30, 2005 level (*i.e.*, $9.20) until the start of Step 4 (July 1, 2008). Beginning in Step 4 (effective July 1, 2008), the MLB cap for non-price cap carriers or, for price cap carriers, the Enterprise Per Line Cap will be $10.00.

J. Price Cap LEC SLC Pricing Rules

1. General Pricing Rules for End User Charges – Effective July 1, 2005

(a) Subject to the Price Cap End User Charge Revenue Limit and the applicable caps and limits on SLCs in Sections III.G. and III.H., above, and the general nondiscrimination requirements of sections 201 and 202 of the Act, and any other applicable provisions of federal law, an ILEC has flexibility to set end user charge levels in its generally available tariffs at its discretion, as described and limited further below. An ILEC may exercise pricing flexibility in accordance with the terms of the Plan as set forth herein.

(b) SLC revenues subject to price caps cannot exceed the Price Cap End User Charge Revenue Limit. The End User Charge Revenue Limit for SLC revenues subject to price caps will be calculated in each annual access filing in accordance with the formulas set forth in this Plan.

(c) A Mass Market Category and an Enterprise Service Category would be established as follows:

(i) Primary residential, non-primary residential, and single-line business SLCs would be assigned to the Mass Market Service Category.

(ii) Multi-line business SLCs would be assigned to the Enterprise Service Category.

(iii) To initialize the End User Charge Revenue Limit for the Enterprise Service Category, the applicable base period demand for the multiline business SLCs under price caps would be multiplied by the greater of:

- The June 30, 2005 multiline business SLC rate; or
- The lower of Average Permitted Revenue Recovery Per Line, the Enterprise Per Line Cap on the SLC, as defined in Section III.G.3. or III.H.3., as applicable, the highest rate consistent with the Average End User Rate Increase Limit, or the Effective End User Rate Increase Limit.

(iv) The End User Charge Revenue Limit for the Mass Market Service Category is then determined by adding together the following:

- For primary residential and single line business lines, the lower of Average Permitted Revenue Recovery Per Line, the Mass Market Per Line Cap on the SLC, as defined in Section III.G.1. or III.H.1., as applicable, or, in Steps 1 through 4, an amount equal to the PR/SLB SLC rate in effect on June 30, 2005 plus $0.75 in Step 1, $1.50 in Step 2, $2.50 in Step 3, and $3.50 in Step 4, times primary residential and single line business base period price cap lines (including any line demand for Lifeline, but not demand under contracts[59]);

[59] If the Commission grants Phase II pricing flexibility for end office switching, that terminating access demand would also be excluded throughout this subsection.

- For non-primary residential lines, the lower of Average Permitted Revenue Recovery Per Line, the Mass Market Per Line Cap on the SLC, as defined in Section III.G.2. or III.H.2., as applicable, in Steps 1 through 4, or, in Steps 1 through 4, an amount equal to the non-primary residential SLC rate in effect on June 30, 2005 plus $0.75 in Step 1, $1.50 in Step 2, $2.50 in Step 3, and $3.50 in Step 4, times non-primary residential base period price cap lines (*i.e.*, not including demand under contracts);

(v) The same line demands and equivalency ratios must be used to calculate the Price Cap End User Charge Revenue Limit, the End User Charge Revenue Limit for the Enterprise Service Category and the End User Charge Revenue Limit for the Mass Market Service Category, and the equivalency ratios used to calculate these Limits in the annual filing must be the same as those used to assess end user rates pursuant to the annual filing.

(d) Price reductions in one service category shall not be offset by price increases in the other service category.

(e) Price reductions within a service category may be offset by price increases to other services within the same service category, subject to the Per Line Cap and the Price Cap and service category End User Charge Revenue Limits.

(f) An ILEC will not be bound by current rules for the application of end user charges contained in either service category. The ILEC may exercise discretion in the application of such end user charges. For example, an ILEC may retain existing customer classes, such as Primary and Non-primary in the Mass Market Service Category and Multi-line Business within the Enterprise Service Category or it may eliminate all of the existing customer classes and establish new customer classes or could establish some combination of existing and new customer classes. Different end user charges could apply to each customer class.

(g) An ILEC may, if it chooses to do so, geographically deaverage its end-user recovery. The pricing zones used for deaveraging end-user recovery for ILECs subject to price caps may only be established as follows:

- The existing zones for UNE loops; or

- The ILEC may adopt a different set of zones in each state. If it chooses this approach, the zones would be subject to a maximum number of four, and a minimum percentage of 15 percent of end user lines in each zone.

- There is no formula for the determination of SLC rates by zone. The ILEC may establish any set of zone rates that meets the revenue limit, the per-line cap and increase limits, and the other requirements set forth herein.

- End user charges for different customer classes may vary by pricing zone.

(h) ILECs would be free to apply different SLC prices based on customer purchase choice:

- Volume purchase, where volume may include revenues or the purchase of other services, *e.g.*, additional lines, vertical services, a service package, provided by the ILEC or in combination with the ILEC and its affiliates. A service package or bundle is a group of services that is marketed at a single price point and may or may not include long distance service. When an ILEC customer chooses to purchase long distance service as a standalone service, *i.e.*, not in a service package, the ILEC cannot include this long distance purchase for the purpose of applying a different SLC.

- Term commitment.

- Growth commitment, where growth reflects an increase in volume as volume is defined above.

j) End user charges and price changes may differ by customer segment, which is a homogeneous group of customers that share one or more of the following dimensions:

- Customer class.

- Pricing Zone.

- Customer purchase choice including but not limited to volume purchase, term commitment, growth commitment, or service package.

k) ILECs would be allowed to offer contract tariffs. End user charge revenues generated by a contract tariffs would not be subject to price caps, nor would demand be included in calculating the Mass Market and Enterprise Service Category End User Charge Revenue Limits. Neither the Service Category nor Price Cap End User Charge Revenue Limit would apply to contract tariffs.

- If an ILEC receives pricing flexibility relief to remove end user charges from price caps after the start of Step 1, but prior to July 1, 2008, the carrier must recalculate the Price Cap End User Charge Revenue Limit and service category revenue limits to reflect the removal of the revenue associated with the services receiving relief, in the same manner as under existing rules.

- Grant of pricing flexibility for an ILEC's end user charges in a given area would not affect the calculation of support from new mechanisms established under this Plan for that area, since the new support would be based on an "as-if" calculation, and would not be related to the actual end user pricing adopted by the ILEC.

(l) ILECs may offer promotions. However, the revenue effect of the promotion cannot be used to create headroom to raise end user charges within the service category on a short-term basis.

(m) For bundled service packages, the ILEC may add an amount to the current end user line item, create a new stand-alone line item, roll the SLC or a portion of the SLC into the price of bundled services, or some combination of these. If the SLC or some portion of the SLC is rolled into a package price, that component of the bundled service package rate would be tracked separately to allow federal recovery to be identified, and to allow application of the Price Cap and service category End User Charge Revenue Limits and the applicable Caps and Limits. This provision does not modify any applicable accounting safeguards. For this purpose, the amount of the SLC charge tracked for a bundled service customer would be the SLC that applies to this customer segment.

(n) For customers that do not purchase a bundled service package, the ILEC may add an amount to the current end user line item, or create a new stand-alone line item, or some combination. When an ILEC customer purchases long distance service as a standalone service, *i.e.*, not in a service package, the same end user charge will apply regardless of whether the customer chooses to purchase long distance service from the ILEC's affiliate or not.

(o) End user charges are not applied today on services provided over dedicated, non-switched arrangements, such as special access (including DSL). This approach would be maintained under this plan.

(p) Parts 61 and 69, as well as any other applicable provisions of the Commission's rules, will be conformed to the language in this Plan.

2. General Pricing Rules for End User Charges – Effective July 1, 2008

The following additional pricing flexibility would become available July 1, 2008:

(a) End user charge revenues would be removed from price caps. The End User Charge Revenue Limit would not apply.

(b) The per-line caps on the SLC otherwise established under this Plan would not apply to end user charges offered under contract tariffs.

(c) There would be no constraints on the manner in which pricing zones could be established.

(d) Tariff filings for price changes could be made on one day's notice.

(e) Except for the Caps set forth in Section III.G. and III.H, above, or to the extent otherwise provided in this Plan, those portions of Parts 61 and 69 of the Commission's rules that address price cap carrier end user charges would no longer apply.

3. Pricing Flexibility Procedural Changes

New service offerings would receive pricing flexibility by demonstrating in the tariff filing that this service is comparable to services that have already received similar pricing flexibility.

4. Additional Regulatory Relief

An ILEC is free to seek additional regulatory relief at any time. For example, an ILEC may request a rule change or waiver for additional pricing flexibility sooner than contemplated by the following provisions of the Plan because it is able to demonstrate that its service territory is sufficiently competitive to warrant such additional relief.

IV. New Support Mechanisms

This Plan establishes two new support mechanisms to provide ILECs with the support described in Sections III.F.1.c. and III.F.2.a., above, and to certain CETCs serving those ILEC study areas, as described further below.

A. Intercarrier Compensation Recovery Mechanism ("ICRM")

1. General Rules

a. Eligibility

The ICRM will provide support to ILECs other than Covered Rural Telephone Companies, as well as CETCs competing with such carriers.

An ETC must certify that it uses the support it receives from the ICRM under this plan only for the provision, maintenance, and upgrading of facilities and services for which the support is intended in the service area where the need for that support originated.

b. Distribution of Support

(1) Default Rule

Unless the ILEC files a "Zone Disaggregation Plan" or a "Residential Targeting Plan," as described herein, all ICRM support will be distributed to achieve a uniform, per-eligible-line amount across all customer classes.

(2) Zone Disaggregation Plans

The ILEC will have the option of filing a "Zone Disaggregation Plan" for its ICRM support that will distribute support by geographic zone. Support must be distributed according to SLC pricing zones or, if a carrier has not created SLC pricing zones, according to UNE pricing zones or, if a carrier does not have UNE pricing zones, then according to disaggregation zones established according to the same rules governing the creation of SLC pricing zones in Section III.J.1.(g) of this Plan. In addition, support in a lower-cost zone per eligible line cannot exceed support per eligible line in a higher-cost zone for the same customer class.

To become effective, a Zone Disaggregation Plans must:

- Be filed with the FCC;
- Describe the rationale used in developing the plan, including the methods and data relied upon in disaggregating ICRM support, in sufficient detail for interested parties to make a meaningful analysis of how the ILEC derived its plan;

- If the plan uses a benchmark, provide detailed information explaining what the benchmark is and how it was determined;

- State the per-eligible-line ICRM support amount available in each zone;

- Include maps precisely identifying the boundaries of the disaggregation zones; and

- Certify compliance with the following requirements:

    1. That the plan will not increase or decrease the total amount of ICRM support the ILEC would receive within a study area, as compared to what it would receive in the absence of a disaggregation plan, holding demand constant;

    2. That the plan will remain in effect for 4 years, unless the Commission grants a petition to alter or amend the plan;

    3. That the plan disaggregates ICRM support into zones corresponding to the ILEC's SLC pricing zones or, if a carrier has not created SLC pricing zones, according to UNE pricing zones or, if a carrier does not have UNE pricing zones, then according to disaggregation zones established according to the parameters for establishing SLC pricing zones in Section III.J.1.(g) of this Plan.[60]

If the ILEC's amount of ICRM support changes during the term of the disaggregation plan (as it will if, *e.g.*, a disaggregation plan is filed before the end of the rate transition), the per-line amount available in each cost zone shall be recalculated using the changed support amount and lines at that point in time, maintaining the same ratios of per-line ICRM support among zones as existed at the beginning of the plan. Such ratios shall be publicly available.

A Zone Disaggregation Plan shall become effective on the first day of the quarter following the day the ILEC files the plan, including the requisite certification, with the FCC. The ILEC must concurrently file the plan with the Administrator. The ILEC may seek confidential treatment of any data contained in the Zone Disaggregation Plan pursuant to Section 0.457(d) of the Commission's rules.

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[60] To the extent that a rate-of-return carrier receives support from the ICRM, it may use the zones established in an existing disaggregation plan it has established with respect to existing support.

(3) Residential Targeting Plans

ILECs will also be permitted to file with the FCC a "Residential Targeting Plan" that distributes support by targeting it only to residential customers to the extent that the ILEC can show that, in a particular SLC pricing zone, the Total Revenue Opportunity (defined as local rate, plus any state SLCs, plus federal SLCs, plus any state and federal universal service support other than ICRM attributable to that line, plus, for residential lines, any ICRM distributed on the basis of residential lines on a per-eligible-residential-line basis) for a residential line is less than the Total Revenue Opportunity for a multiline business line. The ILEC will be permitted to distribute ICRM support solely to eligible residential lines to the extent necessary to make the residential Total Revenue Opportunity equal the multiline business Total Revenue Opportunity. Once the total revenue opportunities are equalized, the ILEC must continue to distribute ICRM support solely to eligible residential lines, and must also, notwithstanding the nationwide SLC caps, increase multiline business SLCs by the amount of revenue that would have been distributed to such lines and reduce ICRM support by the amount of this increase.

To become effective, a Residential Targeting Plan must:

- Be filed with the FCC;
- Identify the Total Revenue Opportunity available for a residential line and for a multiline business line, separately by SLC pricing zone, if any, and describe the methodology used to calculate each, in sufficient detail for interested parties to make a meaningful analysis of how the ILEC derived its plan;
- State the ICRM support amount available to each residential eligible line in each SLC pricing zone, if any, and any adjustment to the MLB SLC in each zone, if any, as a result of this targeting;
- Include maps precisely identifying the boundaries of the ILEC's SLC pricing zones, if any; and
- Certify compliance with the following requirements:

    1. That the plan will not increase the total amount of ICRM support the ILEC would receive within a study area, as compared to what it would receive in the absence of a Residential Targeting Plan, holding demand constant;

    2. That the plan will remain in effect for 4 years, unless regulator grants a petition to alter or amend the plan; and

3. That the plan targets all ICRM to residential lines and, if the ILEC has created SLC pricing zones, disaggregates ICRM support according to such zones.

If the ILEC's amount of ICRM support changes while the Residential Targeting Plan is in effect, (as it will if, *e.g.*, a Residential Targeting Plan is filed before the end of the rate transition), the ILEC shall file a supplement to its Residential Targeting Plan showing the revised Total Revenue Opportunity computations (using the changed support amount and lines at that point in time), separately by SLC pricing zone, if any, and demonstrating compliance with the requirements of this section.

A Residential Targeting Plan shall become effective on the first day of the quarter following the day the ILEC files the plan, including the requisite certification, with the FCC. The ILEC must concurrently file the plan with the Administrator. The ILEC may seek confidential treatment of any data contained in the Zone Disaggregation Plan pursuant to Section 0.457(d) of the Commission's rules.

(4) ICRM Support Available to CETCs

A CETC offering service in the study area of an ILEC receiving ICRM support will receive the same support as the ILEC per eligible line served (as adjusted by any Zone Disaggregation Plan or Residential Targeting Plan). The FCC shall require the Administrator to publish information on the support amount available to each line, substantially equivalent to the information it publishes today with respect to other forms of USF support.

2. Calculation of Per-Line Amount

When a Price Cap ILEC or a CETC loses or gains eligible lines, it, respectively, loses or gains ICRM support accordingly. Depending upon whether the Commission limits the scope of high cost support to primary lines, the per-eligible-line support amount would be calculated as follows:[61]

a. OPTION 1: ICRM Applied to All Lines

If ICRM is applied to all lines within a study area on a uniform basis, the per-line amount shall be calculated by dividing the ICRM amount by current end user line demand. If an ILEC has disaggregated ICRM support by zone, then the per-line amount shall be calculated by dividing the amount of support assigned to each zone by end-user line demand in each zone. If the ILEC has targeted ICRM support to residential lines, the per-line amount shall be calculated by dividing total ICRM support by residential line demand.

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[61] See Section V.B.5., below.

b. OPTION 2: Primary Line Restriction

If ICRM is applied uniformly to primary lines, the per-line amount shall be calculated by dividing the ICRM amount by current primary line demand, as defined by the Commission (except where the ILEC has established that it may disaggregate to residential lines only, in which case the denominator shall be primary residential line demand). If an ILEC has disaggregated ICRM support by zone, then the per-line amount shall be calculated by dividing the amount of support assigned to each zone by primary line demand in each zone. If the ILEC has targeted ICRM support to residential lines, the per-line amount shall be calculated by dividing total ICRM support by primary residential line demand.

B. Transitional Network Recovery Mechanism ("TNRM")

The TNRM will provide support to Covered Rural Telephone Companies, as well as certain CETCs competing with such carriers.

1. General Rules

The following rules apply to the distribution of support from the TNRM in areas served by Covered Rural Telephone Companies:

a) An ILEC that receives TNRM support shall have the opportunity to select a disaggregation path and file a plan that complies with Section 54.315 of the Commission's rules on or before July 1, 2006. Such a plan may (a) disaggregate TNRM in a manner consistent with other USF support under an existing disaggregation plan; or (b) disaggregate all TNRM and existing USF support according to the Commission's existing disaggregation rules. A state commission shall act on any carrier filing under Path 2 within 90 days.

b) A Price Cap CRTC will receive support on a per eligible line basis, as determined in Section III.F.1.c., above.

c) A Rate-of-Return CRTC will receive the amount of TNRM support determined according to Section III.F.2.a., above.

d) Because costs recovered from the TNRM are lost switched access dollars, any CETC, including a new entrant, that has lost switched access revenue (excluding end user charges) due to the implementation of this plan, as compared to what it would have received under existing rules had this plan not been adopted (an "Eligible CETC"), can receive support from the TNRM. Eligible CETCs will receive the same amount of TNRM support per eligible line as the ILEC serving the same area as of the later of July 1, 2005 or the first day of the calendar quarter for which the first CETC first begins receiving support ("the initialization date"), adjusted as follows:

CETC TNRM support per eligible line will increase or decrease in the same proportion that the applicable ILEC revenue requirement increases or decreases after the initialization date. CETC support per line will not change based on changes in ILEC line demand.

e) For a CETC that has not lost switched access revenue (excluding end user charges) due to the implementation of this plan, as compared to what it would have received under existing rules had this plan not been adopted (*e.g.*, some CMRS providers), the Commission will hold a proceeding to determine whether it would be in the public interest for those carriers to receive TNRM support after the expiration of the initial term of this Plan.

f) When a Price Cap CRTC or an eligible CETC loses or gains eligible lines, it, respectively, loses or gains per line support. The FCC shall require the Administrator to publish detailed information on the support amount available to each eligible line.

g) An ETC must certify that it uses the support it receives from the TNRM under this plan only for the provision, maintenance, and upgrading of facilities and services for which the support is intended in the service area where the need for that support originated.

2. Calculation of Per-Line Amount

When a Price Cap ILEC or a CETC loses or gains eligible lines, it, respectively, loses or gains ICRM support accordingly. Depending upon whether the Commission limits the scope of high cost support to primary lines, the per-eligible-line support amount would be calculated as follows:[62]

a. OPTION 1: TNRM Applied to All Lines

If TNRM is applied to all lines within a study area on a uniform basis, the per-line amount shall be calculated by dividing the ICRM amount by current end user line demand. If an ILEC has disaggregated ICRM support by zone, then the per-line amount shall be calculated by dividing the amount of support assigned to each zone by end-user line demand in each zone.

b. OPTION 2: Primary Line Restriction

If TNRM is applied uniformly to primary lines, as defined by the Commission, the per-line amount shall be calculated by dividing the TNRM amount by current primary line demand. If an ILEC has disaggregated TNRM support by zone, then the per-line amount

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[62] See Section V.B.5., below.

shall be calculated by dividing the amount of support assigned to each zone by primary line demand in each zone.

V. Universal Service

A. Contribution Methodology

1. Principles

a. The contribution methodology should not give one vendor of a service a competitive advantage over another vendor of an equivalent service. All similar platforms should be treated in an equitable and nondiscriminatory fashion.

b. The mechanism should create the maximum amount of stability in the amount of the fee carriers impose on customers to collect USF contributions (*i.e.*, should not rise over time).

c. Carriers should be permitted to pass any such assessment through, dollar-for-dollar, to the customer that caused the carrier to incur the contribution obligation.

2. Methodology

a. General

(1) Universal service contributions shall be made based on the number of Unique Working Telephone Numbers (as defined in Section V.A.2.b.(1), below) a service provider uses for retail services, as well as certain network access connections, to the extent specified herein.

(2) Assessments shall be unit-based, with the Administrator setting the contribution level per unit based on demand for funds and the number of units reported by reporting entities.

(3) Each quarter, the Administrator shall compute a flat-rated monthly assessment per unit based on projected funding demand and reported projected units. This amount will be subject to true-up when actual figures are available.

(4) Implementation of this contribution mechanism will be on a bill-and-remit basis. Service providers are

permitted to pass any assessment through, dollar-for-dollar, to the customer purchasing the network connection assessed or to whom each Unique Working Telephone Number is assigned.[63]

(5) The effective date of the new contribution mechanism should provide an implementation period of 6 months following July 1, 2005. During the period between July 1, 2005, and January 1, 2006, the interstate end-user telecommunications revenue contribution factor would be frozen.

b. Unique Working Telephone Numbers

(1) The universal service administrator shall assess each Unique Working Telephone Number based on a weight of 1.0 unit. Under this Plan, a "Unique Working Telephone Number" is a North American Numbering Plan number assigned to a specific end user that provides the ability to receive calls. Thus, numbers that are provided to resellers, UNE-P-based providers, VOIP providers, and for other non-retail uses (other than numbers provided to such entities in their capacity as final consumers of services associated with such numbers), are not considered Unique Working Telephone Numbers of the provider of such numbers to such entities. Each such number shall be considered a Unique Working Telephone Number of the recipient reseller, UNE-P-based provider, or VOIP provider if such number is assigned by such entity to a specific end user and it provides the ability to receive calls.

(2) Wireless carriers on a nationwide basis, CRTCs, and other carriers competing within the geographic footprint of a CRTC's service territory may opt into an alternative contribution methodology under which contribution would be 1 unit on the first number in a residential household account and ½ unit on all additional numbers in that household account at the first step of the plan. Contribution on the additional residential numbers would increase to

[63] This includes with respect to existing contracts.

2/3 in the second step, ¾ in the third step, and 1 for 1 at the fourth step.

(3) A one-way, narrowband, data only CMRS paging service would be assessed as 1/2 of a unique working telephone number assessment.

c. Network Access Connections

In addition to the Unique Working Telephone Number assessment described above, certain network access connections to the public network shall also be assessed as follows:

(1) Residential

A service provider shall incur an obligation to contribute to universal service equal to 1.0 unit for each mass-marketed non-circuit-switched, dedicated network connection with a speed at least equal to that of "high speed" (as defined in the Commission's Advanced Services Proceeding, *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable And Timely Fashion, and Possible Steps To Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996*, CC Docket No. 98-146) connections that it provides for a fee to an end user residential customer, without other regard for the capacity of that connection or technology employed, and specifically including, *e.g.*, residential broadband connections using DSL, cable modem technology, CMRS, point-to-point wireless, or satellite. The Commission shall eliminate any distinction between the treatment of DSL and cable modem technology for universal service contribution purposes.

(2) Business

(a) Tiered Contribution Obligations

A service provider shall incur an obligation to contribute to universal service equal to 1.0 unit for each non-switched, dedicated network connection with a speed at least equal to that of "high speed" (as defined in the Commission's Advanced Services Proceeding *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable And Timely Fashion, and Possible Steps To Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996*, CC Docket No. 98-146) connections but less than 1.5 mbps that it provides for a fee to an end user business customer.

A service provider shall incur an obligation to contribute to universal service equal to 5.0 units for each non-switched, dedicated network connection of 1.5 mbps or more, but less than 45 mbps, that it provides for a fee to an end-user business customer.

A service provider shall incur an obligation to contribute to universal service equal to 40 units for each non-switched, dedicated network connection of 45 mbps or more but less than 200 mbps that it provides for a fee to an end-user business customer.

A service provider shall incur an obligation to contribute to universal service equal to 100 units for each non-switched, dedicated network connection of 200 mbps or more that it provides for a fee to an end-user business customer.

At intervals of no greater than every three years, the Commission shall examine whether these thresholds are commercially reasonable in light of advances in technology and, if in the public interest, adjust the thresholds accordingly.

(b) Treatment of Wi-Fi "Hot Spots"

No contributions shall be required from public Wi-Fi hot spot end-users. Carriers who provide access to Wi-Fi hot spots would contribute based on the capacity of the connection to the Wi-Fi hot spot (1 unit if the connection is less than 45 mbps: 5 units if 45 mbps or greater).

(3) Services Provided to Resellers, UNE-P Providers, and VOIP Providers

Network connections otherwise subject to assessment under this Section V.A.2.c that are provided to resellers, UNE-P-based providers, VOIP providers, and for other non-retail uses, shall not be assessed to the provider of such services to such entities (except to the extent that such network connections are provided to such entities in their capacity as final consumers of such network connections). Each such network connection shall be assessed to the recipient reseller, UNE-P-based provider, or VOIP provider if such network connection is provided by such entity to a specific end user residential or business customer of such entity as described above.

d. Assessment and reporting procedure:

The Commission shall develop a quarterly report to be filed by each provider of Unique Working Telephone Numbers or services subject to assessment under the contribution mechanism specified in this Plan (including resellers, UNE-P providers, VOIP providers, and other recipients of Unique Working Telephone Numbers or network connections on a non-retail basis), in which such provider shall project for the upcoming quarter the volume of such Unique Working Telephone Numbers and network connections that it will provide in the upcoming quarter. The Administrator shall aggregate these projections and determine, based on projected demand for universal service funding in the upcoming quarter, the unit value to be assessed in the upcoming quarter.

The Commission shall also establish a certification program, similar to that currently used in connection with the Form 499 filings, to establish reseller, UNE-P, VOIP, *de minimis*, and any necessary similar categories of providers.

B. Other USF Issues

1. Lifeline support for low-income consumers will automatically adjust pursuant to 47 C.F.R. 54.403(a) to offset all changes to the SLC for Lifeline subscribers.

2. The nationwide cap on High Cost Loop Support will be removed, and the National Average Unseparated Loop Cost Per Working Loop specified in Section 36.622(a) of the Commission's rules shall be unfrozen, as of July 1, 2005. This would be reexamined at the end of eight years, but not before.

3. Elimination of Disparate Treatment of High Cost Loop Support Based Upon Study Area Size. Section 36.631 of the Commission's rules shall be modified to eliminate the different support percentages for study areas depending upon the number of working loops in the study areas. The current trigger of a study area's cost per loop requirement to exceed the 115 percent national average trigger is sufficient to assure that support is provided only to rural areas with high cost loop and need for support. This change will assure that all high cost study areas receive per loop support on an equal per loop basis. The ICF recommends that state commissions be made aware of the study areas that would be impacted by this modification and that the state commissions, as required today, continue to certify that the affected carriers will utilize any increase in the funded amounts in the study areas in which the funding is received and in the manner intended by the Act. Section 36.631(d) of the Commission rules should be deleted. Section 36.631(c) shall be modified as follows:

> "(c) Beginning January 1, 2006, for all study areas reporting working loops pursuant to § 36.611(h), ..."

4. ICLS support would be determined as if existing SLC caps remained in place, unless the Residential and Single Line Business SLC in a particular ILEC study area does not reach the Nationwide Cap, in which case ICLS support to that study area would be reduced until all SLCs reached the cap, or ICLS support was eliminated.

5. The ICF takes no position regarding changes to ETC eligibility requirements or guidelines as discussed in the Joint Board's Recommended Decision dated February 27, 2004 ("Recommended Decision"). The ICF also takes no position regarding whether the Commission should implement a primary-line-based support mechanism, as discussed in the Recommended Decision.

6. For the term of this plan, all USF support under existing mechanisms remain portable to all ETCs that, regardless of technology used to provide the service, satisfy the applicable designation and certification requirements. For the term of this plan, an ILEC ETC's support other than under IAS and HCM Support, will be calculated based on ILEC embedded costs. During this same period, for these mechanisms other than IAS and HCM Support, ETCs other than the ILEC will receive the same amount of support per eligible line as the ILEC serving the same area as of the later of July 1, 2005 or the first day of the calendar quarter for which the first CETC first begins receiving support ("the initialization date"), adjusted as follows: CETC support per line will increase or decrease in the same proportion that the applicable ILEC revenue requirement (*e.g.* unseparated cost per loop for HCLS, common line revenue requirement less line port costs in excess of basic and special access surcharges for ICLS, and, for LSS, the unseparated local switching revenue requirement) increases or decreases after the initialization date. CETC support per line will not change based on changes in ILEC line demand. If the ILEC crosses one of the tiers in Section 36.125(f) of the Commission's rules, so that a new weighting factor applies for purposes of calculating LSS, the CETC's LSS per line shall also be adjusted by the same proportion as the change in the ILEC's aggregate LSS. If the level of support provided by any explicit federal support mechanism to an ILEC changes due to exogenous events, such as the sale or purchase of exchanges, changes to jurisdictional separations, the capping or uncapping of support, or other similar events, the per-line support amount available to a CETC shall be adjusted in the same proportion to the change in the aggregate support provided by the affected support mechanism to the ILEC.

7. All ETCs – ILECs and CETCs – should be subject to fully comparable, competitively and technologically neutral, requirements regarding customer service, service quality, and provisioning of service to requesting customers within a reasonable period of time. The customer service, service quality, and provisioning requirements that currently apply to ILECs under existing state laws and regulations may not necessarily be appropriate for this purpose. For example, regulations applicable to carriers because of dominant status should not apply to CETCs, unless the CETC is found to be dominant in the market.

8. Safety Valve for High Cost Loop Support. The Safety Valve for High Cost Loop Support to exchanges acquired by rural ILECs

(contained in Section 54.305 of the Commission's rules) shall be modified as follows:

a. The buyer is eligible for safety valve support immediately following the acquisition of rural exchanges based on a showing of actual investment in the acquired properties.

b. The measure of cost for the "base line" should be the cost per loop of the seller at the time of the transaction. This will provide the best measure of the buyer's increased investment, and benefit the rural customers.

c. A rural ILEC shall receive 75 percent of the difference between its average loop cost and the base line loop cost in the partial year (if applicable) and first full year after close of a transaction. In subsequent years, the carrier would be eligible for 50 percent of that difference, as under the current rule.

d. The existing 5 percent cap on aggregate safety valve support contained in Section 54.305(e) shall remain in place.

9. High Cost Support Option for Certain Price Cap CRTCs

a. A price cap CRTC that does not, as of July 1, 2005, receive rural high-cost loop support (and of which none of the affiliates that are incumbent local exchange carriers within the same holding company as such carrier receives rural high cost loop support as of July 1, 2005) may elect, as of July 1, 2005, to participate in the non-rural high-cost loop support mechanism (*i.e.* pursuant to 47 C.F.R. 54.309) based on the high-cost model.

b. One-time Option: If a carrier elects to participate in the non-rural high-cost loop support mechanism, as provided above, all the study areas within the same holding company as the electing carrier must make the same election. However, nothing herein shall affect the participation in the rural or non-rural high cost loop support mechanisms by any non-electing carrier that may be acquired by an electing carrier after its election of this option. Further, if any electing carrier (or assets owned by an electing carrier) are acquired after the election described above, nothing herein will affect the buyer's status as a participant in the rural or non-rural high-cost loop support mechanisms.

VI. Other Issues

A. Term Of The Plan

Except as expressly specified (*e.g.*, for the rate regulations applicable to transit service offered by transiting carriers), after the end of the eight-year period, the rules described herein will continue in effect unless and until modified or replaced by the Commission. In addition, this Plan specifies certain issues for review by the Commission at the conclusion of the initial eight-year term.

B. FCC Proceeding

During Step 5, the FCC shall commence a proceeding to evaluate whether the transition of the termination rate to zero should be longer or shorter than is otherwise called for in the rules implementing the ICF Plan. In this proceeding, the FCC shall also consider whether regulation-induced arbitrage remains a prevalent issue that will not be addressed through operation of the Plan. All carriers shall continue to abide by the schedule in the rules implementing the Plan during the pendency of this proceeding, unless and until the FCC makes an affirmative finding that it would not be in the public interest for a carrier to do so, and issues revisions to its rules setting forth a new schedule.

Appendix A – Carrier Responsibilities in Tandem Transit Situations [This Appendix is illustrative only]

a. Tandem Transit Provider Responsibilities

i. Receive and aggregate traffic volume forecasts provided by Ordering Carriers.

ii. Issue Trunk Group Service Requests (TGSRs) to interconnecting carriers to initiate trunk re-sizing.

iii. Process transit trunk Access Service Requests (ASRs) from carriers.

iv. Provision trunk groups between the tandem switch and interconnecting switches.

v. Load NPA-NXX and other traffic routing codes to tandem for call processing.

vi. Exchange SS7 signaling messages with originating and terminating carriers.

vii. Provide tandem (trunk-to-trunk) switching and common transport between the tandem switch and terminating switch.

viii. Pass originating carrier identification parameters and CPN to the terminating carrier, where provided by the Ordering Carrier.

ix. Resolve trunk blocking incidents with affected carriers.

x. Work cooperatively with the affected carrier to restore trunk outages.

xi. Where the interconnecting carriers are expected to take some action at certain transit traffic volume thresholds, provide notice to the affected carriers when the threshold is met.

xii. Bill transit fees to the Ordering Carrier.

b. Ordering Carrier Responsibilities

i. Pay transit fees;

ii. Perform control office functions (overall coordination for installation and maintenance)

iii. Exchange SS7 signaling messages with transiting and terminating carriers

iv. Issue trunking ASRs to establish or re-size trunk groups.

v. Respond to TGSRs from Tandem Transit Provider.

vi. Pay intercarrier compensation to Non-Ordering carriers, if applicable.

vii. When the Ordering Carrier is the originating carrier:

1. Provide originating traffic forecasts to Tandem Transit Provider.

2. send carrier identification parameters to Tandem Transit Provider (per message)

3. Provide network protective protocols such as call gapping or choke trunks

4. Provide carrier identification and parameters and CPN in the appropriate SS7 field to the Tandem Transit Provider, in conformance with current OBF standards.

c. Non-Ordering Carrier Responsibilities

i. When the Non-Ordering Carrier is the originating carrier, comply with duties of originating carriers set forth in b.vii. of this Appendix, above;

ii. Issue trunking ASRs to requesting transit providers.

iii. Perform control office functions on trunk groups.

iv. Exchange SS7 signaling messages with originating and transiting carriers.

v. Respond to TSGRs from a Tandem Transit Provider.

vi. Pay intercarrier compensation to Ordering carriers, if applicable.

Appendix B – ICRM/ Pricing Charts

Price Cap Non-CRTC SLC Transition and "As if" ICRM Calculation Under the ICF Plan: Assuming $1.00/Line Shift per Step

Scenario 1

STEP 0:	Price Cap Demand (M)	Demand Under Contracts (M)	Base Period Demand With Contracts (M)	June 30, 2005 SLC Rates	Adjusted CMT Per Line	Access Shift Per Step ($/Line)
Primary	60	0	60	$6.50		$1.00
Non-Primary	10	0	10	$7.00		$1.00
MLB	20	10	30	$9.00		$1.00
AGGREGATE	90	10	100	n/a	$7.30	$1.00

	Derivation of "As If" SLC Revenue/Line Per ICF Plan					Calculation of ICRM (*As If*)		
ICF: STEP 1	**Cumulative Access Shift Per Step ($/Line)**	**Permitted Revenue Recovery/Line**	**Nationwide SLC Cap/Line**	**Average SLC Rate Increase Limit**	**"As If" SLC Revenue /Line**	**Potential SLC Revenue**	**Max. Line Recovery Revenue**	**ICRM ($ M)**
	A	**B= A+ CMT/Line**	**C**	**D=SLC+Avg. Limit Per Step***	**E=****	**F = E*Demand with Contracts**	**G = B*Demand with Contracts**	**H = G - F**
Primary	$1.00	$8.30	$7.25	$7.25	$7.25	$435.00	**$498.00**	
Non-Primary	$1.00	$8.30	$7.25	$7.75	$7.25	$72.50	**$83.00**	
MLB	$1.00	$8.30	$9.20	$9.75	$9.00	$270.00	**$249.00**	
AGGREGATE	$1.00	$8.30	n/a	n/a	n/a	**$777.50**	**$830.00**	**$52.50**
ICF: STEP 2	**Cumulative Access Shift/Line**	**Permitted Revenue Recovery/Line**	**Nationwide SLC Cap/Line**	**Average SLC Rate Increase Limit**	**"As If" SLC Revenue /Line**	**Potential SLC Revenue**	**Max. Line Recovery Revenue**	**ICRM ($ M)**
Primary	$2.00	$9.30	$8.00	$8.00	$8.00	$480.00	**$558.00**	
Non-Primary	$2.00	$9.30	$8.00	$8.50	$8.00	$80.00	**$93.00**	
MLB	$2.00	$9.30	$9.20	$10.50	$9.00	$270.00	**$279.00**	
AGGREGATE	$2.00	$9.30				**$830.00**	**$930.00**	**$100.00**
ICF: STEP 3* **	**Cumulative Access Shift/Line**	**Permitted Revenue Recovery/Line**	**Nationwide SLC Cap/Line**	**Average SLC Rate Increase Limit**	**"As If" SLC Revenue /Line**	**Potential SLC Revenue**	**Max. Line Recovery Revenue**	**ICRM ($ M)**
Primary	$3.00	$10.30	$9.00	$9.00	$9.00	$540.00	**$618.00**	
Non-Primary	$3.00	$10.30	$9.00	$9.50	$9.00	$90.00	**$103.00**	
MLB	$3.00	$10.30	$9.20	$11.50	$9.00	$270.00	**$309.00**	
AGGREGATE	$3.00	$10.30				**$900.00**	**$1,030.00**	**$130.00**
ICF: STEP 4	**Cumulative Access Shift/Line**	**Permitted Revenue Recovery/Line**	**Nationwide SLC Cap/Line**	**Average SLC Rate Increase Limit**	**"As If" SLC Revenue /Line**	**Potential SLC Revenue**	**Max. Line Recovery Revenue**	**ICRM ($ M)**
Primary	$4.00	$11.30	$10.00	$10.00	$10.00	$600.00	**$678.00**	
Non-Primary	$4.00	$11.30	$10.00	$10.50	$10.00	$100.00	**$113.00**	
MLB	$4.00	$11.30	$10.00	$12.50	$10.00	$300.00	**$339.00**	
AGGREGATE	$4.00	$11.30				**$1,000.00**	**$1,130.00**	**$130.00**
ICF: STEP 5	**Cumulative Access Shift/Line**	**Permitted Revenue Recovery/Line**	**Nationwide SLC Cap/Line**** **	**Average SLC Rate Increase Limit**	**"As If" SLC Revenue /Line**	**Potential SLC Revenue**	**Max. Line Recovery Revenue**	**ICRM ($ M)**
Primary	$4.00	$11.30	$10.00	n/a	$10.00	$600.00	**$678.00**	
Non-Primary	$4.00	$11.30	$10.00	n/a	$10.00	$100.00	**$113.00**	
MLB	$4.00	$11.30	$10.00	n/a	$10.00	$300.00	**$339.00**	
AGGREGATE	$4.00	$11.30				**$1,000.00**	**$1,130.00**	**$130.00**

* Average Enduser Rate Increase Limit: In Step 1, $0.75; in Step 2, $1.50; in Step 3, $2.50; and in Step 4, $3.50

**"As If" SLC Rates Are Selected As : For Primary/Non-Primary , it would the Lesser of Columns B,C, and D
For MLB, it would be the Maximum of June 30, 2005 Rate and Lesser of Columns B,C, and D

*** Assumed Transport Shift in Step 3 Would Be Less Than or Equal To 25% of Total Access Shift

**** In Step 5 and annually thereafter, $10.00 Cap shall be adjusted at the rate of inflation as measured by annual change in GDP Chain-Weighted Price Index

NOTE: Lines under contracts are included in "*As If" ICRM calculation.*

Price Cap Non-CRTC SLC Transition and "As if" ICRM Calculation Under the ICF Plan: Assuming $0.90/Line Shift per Step

Scenario 2

STEP 0:	Price Cap Demand (M)	Demand Under Contracts (M)	Base Period Demand With Contracts (M)	June 30, 2005 SLC Rates	Adjusted CMT Per Line	Access Shift Per Step ($/Line)
Primary	60	0	60	$6.00		$0.90
Non-Primary	10	0	10	$6.00		$0.90
MLB	20	10	30	$6.00		$0.90
AGGREGATE	90	10	100	n/a	$6.00	$0.90

	Derivation of "As If" SLC Revenue/Line Per ICF Plan					Calculation of ICRM (*As If*)		
ICF: STEP 1	Cumulative Access Shift Per Step ($/Line)	Permitted Revenue Recovery/Line	Nationwide SLC Cap/Line	Average SLC Rate Increase Limit	"As If" SLC Revenue/Line	Potential SLC Revenue	Max. Line Recovery Revenue	ICRM ($ M)
	A	B= A+ CMT/Line	C	D=SLC+Avg. Limit Per Step*	E=**	F = E*Demand with Contracts	G = B*Demand with Contracts	H = G - F
Primary	$0.90	$6.90	$7.25	$6.75	$6.75	$405.00	$414.00	
Non-Primary	$0.90	$6.90	$7.25	$6.75	$6.75	$67.50	$69.00	
MLB	$0.90	$6.90	$9.20	$6.75	$6.75	$202.50	$207.00	
AGGREGATE	$0.90	$6.90	n/a	n/a	n/a	$675.00	$690.00	$15.00
ICF: STEP 2	Cumulative Access Shift/Line	Permitted Revenue Recovery/Line	Nationwide SLC Cap/Line	Average SLC Rate Increase Limit	"As If" SLC Revenue/Line	Potential SLC Revenue	Max. Line Recovery Revenue	ICRM ($ M)
Primary	$1.80	$7.80	$8.00	$7.50	$7.50	$450.00	$468.00	
Non-Primary	$1.80	$7.80	$8.00	$7.50	$7.50	$75.00	$78.00	
MLB	$1.80	$7.80	$9.20	$7.50	$7.50	$225.00	$234.00	
AGGREGATE	$1.80	$7.80				$750.00	$780.00	$30.00
ICF: STEP 3* **	Cumulative Access Shift/Line	Permitted Revenue Recovery/Line	Nationwide SLC Cap/Line	Average SLC Rate Increase Limit	"As If" SLC Revenue/Line	Potential SLC Revenue	Max. Line Recovery Revenue	ICRM ($ M)
Primary	$2.70	$8.70	$9.00	$8.50	$8.50	$510.00	$522.00	
Non-Primary	$2.70	$8.70	$9.00	$8.50	$8.50	$85.00	$87.00	
MLB	$2.70	$8.70	$9.20	$8.50	$8.50	$255.00	$261.00	
AGGREGATE	$2.70	$8.70				$850.00	$870.00	$20.00
ICF: STEP 4	Cumulative Access Shift/Line	Permitted Revenue Recovery/Line	Nationwide SLC Cap/Line	Average SLC Rate Increase Limit	"As If" SLC Revenue/Line	Potential SLC Revenue	Max. Line Recovery Revenue	ICRM ($ M)
Primary	$3.60	$9.60	$10.00	$9.50	$9.50	$570.00	$576.00	
Non-Primary	$3.60	$9.60	$10.00	$9.50	$9.50	$95.00	$96.00	
MLB	$3.60	$9.60	$10.00	$9.50	$9.50	$285.00	$288.00	
AGGREGATE	$3.60	$9.60				$950.00	$960.00	$10.00
ICF: STEP 5	Cumulative Access Shift/Line	Permitted Revenue Recovery/Line	Nationwide SLC Cap/Line****	Average SLC Rate Increase Limit	"As If" SLC Revenue/Line	Potential SLC Revenue	Max. Line Recovery Revenue	ICRM ($ M)
Primary	$3.60	$9.60	$10.00	n/a	$9.60	$576.00	$576.00	
Non-Primary	$3.60	$9.60	$10.00	n/a	$9.60	$96.00	$96.00	
MLB	$3.60	$9.60	$10.00	n/a	$9.60	$288.00	$288.00	
AGGREGATE	$3.60	$9.60				$960.00	$960.00	$0.00

* Average Enduser Rate Increase Limit: In Step 1, $0.75; in Step 2, $1.50; in Step 3, $2.50; and in Step 4, $3.50

**"As If" SLC Rates Are Selected As : For Primary/Non-Primary , it would the Lesser of Columns B,C, and D
For MLB, it would be the Maximum of June 30, 2005 Rate and Lesser of Columns B,C, and D

*** Assumed Transport Shift in Step 3 Would Be Less Than or Equal To 25% of Total Access Shift

**** In Step 5 and annually thereafter, $10.00 Cap shall be adjusted at the rate of inflation as measured by annual change in GDP Chain-Weighted Price Index

NOTE: Lines under contracts are included in "*As If" ICRM calculation.*

Price Cap Basket Calculation Under the ICF Plan: Assuming $1.00/Line Shift per Step

Scenario 1 A

STEP 0:	Price Cap Demand (M)	Demand Under Contracts (M)	Base Period Demand With Contracts (M)	June 30, 2005 SLC Rates	Adjusted CMT Per Line	Access Shift Per Step ($/Line)
Primary	60	0	60	$6.50		$1.00
Non-Primary	10	0	10	$7.00		$1.00
MLB	20	10	30	$9.00		$1.00
AGGREGATE	90	10	100	n/a	$7.30	$1.00

Derivation of "As If" SLC Revenue/Line Per ICF Plan

ICF: STEP 1	Cumulative Access Shift Per Step ($/Line)	Permitted Revenue Recovery/Line	Nationwide SLC Cap/Line	Average SLC Rate Increase Limit	"As If" SLC Revenue /Line	Price Cap End User Revenue Calculation By Market Basket	
	A	B= A+ CMT/Line	C	D=SLC+Avg. Limit Per Step*	E=**	Service Category	Revenue ($ M)
Primary	$1.00	$8.30	$7.25	$7.25	$7.25	Mass Market (PR +NPR)	$507.50
Non-Primary	$1.00	$8.30	$7.25	$7.75	$7.25		
MLB	$1.00	$8.30	$9.20	$9.75	$9.00	Enterprise Market (MLB)	$180.00

ICF: STEP 2	Cumulative Access Shift/Line	Permitted Revenue Recovery/Line	Nationwide SLC Cap/Line	Average SLC Rate Increase Limit	"As If" SLC Revenue /Line	Service Category	Revenue ($ M)
Primary	$2.00	$9.30	$8.00	$8.00	$8.00	Mass Market (PR +NPR)	$560.00
Non-Primary	$2.00	$9.30	$8.00	$8.50	$8.00		
MLB	$2.00	$9.30	$9.20	$10.50	$9.00	Enterprise Market (MLB)	$180.00

ICF: STEP 3***	Cumulative Access Shift/Line	Permitted Revenue Recovery/Line	Nationwide SLC Cap/Line	Average SLC Rate Increase Limit	"As If" SLC Revenue /Line	Service Category	Revenue ($ M)
Primary	$3.00	$10.30	$9.00	$9.00	$9.00	Mass Market (PR +NPR)	$630.00
Non-Primary	$3.00	$10.30	$9.00	$9.50	$9.00		
MLB	$3.00	$10.30	$9.20	$11.50	$9.00	Enterprise Market (MLB)	$180.00

ICF: STEP 4	Cumulative Access Shift/Line	Permitted Revenue Recovery/Line	Nationwide SLC Cap/Line	Average SLC Rate Increase Limit	"As If" SLC Revenue /Line	Service Category	Revenue ($ M)
Primary	$4.00	$11.30	$10.00	$10.00	$10.00	N/A	
Non-Primary	$4.00	$11.30	$10.00	$10.50	$10.00		
MLB	$4.00	$11.30	$10.00	$12.50	$10.00		

* Average Enduser Rate Increase Limit: In Step 1, $0.75; in Step 2, $1.50; in Step 3, $2.50; and in Step 4, $3.50

**"As If" SLC Rates Are Selected As : For Primary/Non-Primary , it would the Lesser of Columns B,C, and D
For MLB, it would be the Maximum of June 30, 2005 Rate and Lesser of Columns B,C, and D

*** Assumed Transport Shift in Step 3 Would Be Less Than or Equal To 25% of Total Access Shift

**** In Step 5 and annually thereafter, $10.00 Cap shall be adjusted at the rate of inflation as measured by annual change in GDP Chain-Weighted Price Index

NOTE: Lines under contracts are excluded from price cap basket calculations, even though they are included in the ICRM calculation

Price Cap Basket Calculation Under the ICF Plan: Assuming $0.90/Line Shift per Step

Scenario 2 A

STEP 0:	Price Cap Demand (M)	Demand Under Contracts (M)	Base Period Demand With Contracts (M)	June 30, 2005 SLC Rates	Adjusted CMT Per Line	Access Shift Per Step ($/Line)
Primary	60	0	60	$6.00		$0.90
Non-Primary	10	0	10	$6.00		$0.90
MLB	20	10	30	$6.00		$0.90
AGGREGATE	90	10	100	n/a	$6.00	$0.90

	Derivation of "As If" SLC Revenue/Line Per ICF Plan					Price Cap End User Revenue Calculation By Market Basket	
ICF: STEP 1	Cumulative Access Shift Per Step ($/Line)	Permitted Revenue Recovery/Line	Nationwide SLC Cap/Line	Average SLC Rate Increase Limit	"As If" SLC Revenue /Line		
	A	B= A+ CMT/Line	C	D=SLC+Avg. Limit Per Step*	E=**	Service Category	Revenue ($ M)
Primary	$0.90	$6.90	$7.25	$6.75	$6.75	Mass Market (PR +NPR)	$472.50
Non-Primary	$0.90	$6.90	$7.25	$6.75	$6.75		
MLB	$0.90	$6.90	$9.20	$6.75	$6.75	Enterprise Market (MLB)	$135.00
ICF: STEP 2	Cumulative Access Shift/Line	Permitted Revenue Recovery/Line	Nationwide SLC Cap/Line	Average SLC Rate Increase Limit	"As If" SLC Revenue /Line	Service Category	Revenue ($ M)
Primary	$1.80	$7.80	$8.00	$7.50	$7.50	Mass Market (PR +NPR)	$525.00
Non-Primary	$1.80	$7.80	$8.00	$7.50	$7.50		
MLB	$1.80	$7.80	$9.20	$7.50	$7.50	Enterprise Market (MLB)	$150.00
ICF: STEP 3* **	Cumulative Access Shift/Line	Permitted Revenue Recovery/Line	Nationwide SLC Cap/Line	Average SLC Rate Increase Limit	"As If" SLC Revenue /Line	Service Category	Revenue ($ M)
Primary	$2.70	$8.70	$9.00	$8.50	$8.50	Mass Market (PR +NPR)	$595.00
Non-Primary	$2.70	$8.70	$9.00	$8.50	$8.50		
MLB	$2.70	$8.70	$9.20	$8.50	$8.50	Enterprise Market (MLB)	$170.00
ICF: STEP 4	Cumulative Access Shift/Line	Permitted Revenue Recovery/Line	Nationwide SLC Cap/Line	Average SLC Rate Increase Limit	"As If" SLC Revenue /Line	Service Category	Revenue ($ M)
Primary	$3.60	$9.60	$10.00	$9.50	$9.50	N/A	
Non-Primary	$3.60	$9.60	$10.00	$9.50	$9.50		
MLB	$3.60	$9.60	$10.00	$9.50	$9.50		

* Average Enduser Rate Increase Limit: In Step 1, $0.75; in Step 2, $1.50; in Step 3, $2.50; and in Step 4, $3.50

**"As If" SLC Rates Are Selected As : For Primary/Non-Primary , it would the Lesser of Columns B,C, and D
For MLB, it would be the Maximum of June 30, 2005 Rate and Lesser of Columns B,C, and D

*** Assumed Transport Shift in Step 3 Would Be Less Than or Equal To 25% of Total Access Shift

**** In Step 5 and annually thereafter, $10.00 Cap shall be adjusted at the rate of inflation as measured by annual change in GDP Chain-Weighted Price Index

NOTE: Lines under contracts are excluded from price cap basket calculations, even though they are included in the ICRM calculation

Appendix B

APPENDIX B: Summary of the ICF Plan[1]

The Intercarrier Compensation Forum Plan ("the Plan") is a cross-industry proposal developed by a group of carriers with frequently divergent interests for reforming today's outmoded network interconnection, intercarrier compensation, and universal service rules. If adopted in its entirety, the Plan will advance consumer interests, facilitate efficient competition, promote the deployment of broadband and other new services and technologies, and preserve and enhance universal service. To accomplish these goals, the Plan establishes clear, uniform network interconnection rules and, on July 1, 2005, begins to restructure intercarrier compensation rates to bring immediate relief from today's broken system. Within three years, the Plan unifies the disparate network interconnection and intercarrier compensation regimes governing switched access, reciprocal compensation, and the exchange of ISP-bound, inter- and intra-MTA CMRS, and paging traffic, as well as traffic with one end originating or terminating on IP networks by replacing these regimes with a single, uniform, per-minute termination rate for all traffic. In the next phase, the Plan transitions that rate to an efficient and deregulatory bill-and-keep structure. Finally, the Plan reforms and reinforces universal service support by making explicit the support that today is implicit in intercarrier compensation charges and by creating an equitable and nondiscriminatory funding mechanism that is sustainable for the future.

The Plan is organized into three primary sections: (1) Network Interconnection; (2) Rate Restructuring; and (3) Universal Service, as follows:

I. Network Interconnection

The default network interconnection rules, which preserve physical interconnection flexibility but provide uniform and certain financial responsibilities for interconnection decisions, take effect in their entirety on July 1, 2007, at the beginning of the third annual step of the rate restructuring described below. This will allow carriers adequate time to plan for and coordinate the change, or, where in their mutual interest, to negotiate alternatives.

A. The Need for Uniform Default Network Interconnection Rules

Developing uniform default network interconnection rules is an essential part of a unified intercarrier compensation system. Otherwise, the financial burden on a carrier for delivering traffic to and receiving traffic from an interconnecting carrier would continue to vary based on how the traffic (and the carriers themselves) are classified, and what interconnection rules are therefore implicated. Such differences would undermine the benefits to be gained from uniform compensation rules. Further, by creating *default* rules, the Plan ensures regulatory certainty and efficiency with respect to the financial implications of interconnection for all carriers, regardless of whether they deem it appropriate to reach individualized, negotiated arrangements.

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[1] The members of the ICF believe that the descriptions of the ICF Plan contained in this summary, the attached brief in support of the Plan, and the ICF's August 2004 *ex parte* filings in CC Docket No. 01-92 are all consistent with the detailed ICF Plan document, also attached to this brief as Appendix A. To the extent of any apparent conflict, however, the detailed ICF Plan document controls.

B. Types of Networks

Thus, the Plan establishes clear and explicit default technical and financial rules to govern the efficient interconnection of diverse carrier networks. These rules would take effect on July 1, 2007 and provide a framework for voluntary carrier negotiations, while establishing default responsibilities in the absence of any carrier agreement to the contrary. The Plan classifies networks into three categories – hierarchical, non-hierarchical, and rural – as follows:

- A *Hierarchical Network*, which is one that has commonly-owned access tandems and subtending end offices.

- A *Rural Network*, which is a network operated by a *Covered Rural Telephone Company* ("CRTC"), defined as a carrier that:

  - Is a Rural Telephone Company under the Communications Act, is not a BOC or an affiliate of a BOC, and serves fewer than 1,000,000 access lines in its study area; or

  - Is a Two Percent Carrier under the Communications Act with a holding company average of fewer than 19 switched access end user common line charge lines per square mile served; and

- A *Non-Hierarchical Network*, which is any network that is neither hierarchical nor rural.

C. Network Edges

The Plan's default rules for each type of network are based on the concept of network "Edges," which are specified points at which these networks accept traffic.[2] Edges are subject to locational, numerical, and functional requirements specified in the Plan.

Locationally, a carrier generally must specify at least one Edge within each LATA, at which it will permit interconnection and receive (or accept financial responsibility for) traffic. As a general matter, a CRTC also is entitled to receive traffic at Edges located within each contiguous portion of its study area.

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[2] In some circumstances, carrier networks may seek to exercise their right under section 251(c) of the Act to physically interconnect their facilities (which include self-provided or leased facilities) at locations other than an Edge, but the Plan's default interconnection transport rules for apportionment of the cost of network interconnection would not apply; those rules apply only to transport between Edges. In such circumstances, carriers may purchase ILEC services, including expanded interconnection to special access to complete the path between the physical interconnection and the ILEC's Edge. Unbundled dedicated transport, where available, may also be used to complete this path. The list of technically feasible points of interconnection for purposes of section 251(c)(2) will be contingent on the ability of carriers to fulfill their interconnection transport obligations under the ICF Plan.

Numerically, a carrier may specify additional Edges within a LATA, subject to the following constraints. First, no carrier may require interconnection at more Edges in a LATA than the total number of ILEC access tandems in that LATA as of July 1, 2005. Second, no carrier may designate more than one Edge at a single geographic location. Third, no carrier may designate more Edges than otherwise meet the functional requirements prescribed by the Plan.

Functionally, an Edge must be able to accept all types of public switched telephone network traffic and, specifically, must be an access tandem, end office, wireless mobile switching center, point of presence, or trunking media gateway.[3] Other carriers must also be able to interconnect at the Edge using multiple methods. Specifically, the Edge owner must permit a requesting carrier to interconnect at an Edge using fiber optic or electrical cable termination (depending on volume), as well as the Edge owner's choice of two of the following: (1) physical or virtual collocation (a required choice for all ILECs other than CRTCs whose exemption under Section 251(f)(1) has not been terminated); (2) a mid-span fiber meet (a required choice for CRTCs); (3) leased transport provided by the Edge owner, subject to certain nondiscrimination requirements; and (4) leased transport provided by an unaffiliated carrier, subject to certain nondiscrimination requirements.

D. Interconnection of Networks

Under the default rules for network interconnection established under the Plan, a carrier is responsible for delivering traffic it receives at its Edge to its destination. Two networks interconnect their Edges using interconnection transport. The Plan establishes specific obligations and financial terms for interconnection transport, as follows:

> *Like Networks.* When two like networks interconnect (*i.e.*, Hierarchical-to-Hierarchical, Non-Hierarchical-to-Non-Hierarchical, or Rural-to-Rural), the originating network is financially responsible for delivering traffic it originates to the recipient carrier's Edge.
>
> *Hierarchical-to-Non-Hierarchical.* When a Hierarchical Network interconnects with a Non-Hierarchical Network, the Non-Hierarchical Network bears the financial responsibility for delivering traffic to (and transporting traffic from) the Hierarchical Network's Edge. The Hierarchical Network must, however, offer transport between the two network Edges at the interstate switched dedicated transport rate, with a 50 percent discount applicable to the first 40 miles of each route.[4] The Non-Hierarchical Network may accept this offer, or may elect to establish its own or third-party interconnection transport, in which case it would bear the entire cost of doing so.

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[3] A Hierarchical Carrier (which operates both access tandems and subtending end offices) is not necessarily limited to using its access tandems as Edges. It may not, however, designate a local tandem or end office subtending its own access tandem as an Edge.

[4] The Plan also provides that interconnection transport trunks may not be used for transit traffic, discussed below, without compensation.

Rural Networks. The network interconnection rules in the Plan are explicitly designed to protect universal service in rural America by establishing modified default rules that apply to Rural Networks (*i.e.*, those operated by a CRTC). Generally, a CRTC is not required to deliver traffic to an interconnecting carrier at a point outside of the contiguous portion of the CRTC study area where the traffic originates, except to reach another CRTC within the same LATA.[5]

The default rules for interconnection of like networks apply (1) if an interconnecting carrier establishes an Edge within a contiguous portion of the CRTC's study area; or (2) when two CRTCs interconnect within the same LATA. To other carriers, a CRTC must offer interconnection at one or more meet points located on the boundary of each contiguous portion of its study area in addition to the physical interconnection obligations identified in the Plan. A carrier interconnecting with a CRTC must receive traffic originated by the CRTC at such a meet point, and assume financial responsibility for transport of traffic from that point. The interconnecting carrier must deliver traffic terminating to the CRTC's end users to the CRTC at the CRTC's designated Edge within the contiguous portion of the CRTC's study area where the traffic will terminate. To do so, it may purchase switched transport services from the CRTC, provision its own transport to the CRTC Edge, or purchase such transport from a third party. Thus, the Plan continues to provide a very important additional transport revenue stream for CRTCs that need such revenue diversity. In the alternative, a CRTC may elect to assume the costs of transport at the meet point, recovering the additional costs from its own end users or, if necessary, from a federal universal service support mechanism.

E. Tandem Transit Service

The Plan also addresses the obligations to provide and the rights to compensation for tandem transit service, which is distinct from interconnection transport. Tandem transit service is a switched transport function that is used to effectuate interconnection between two carriers within a LATA that are not directly interconnected. Such service will be classified under the Plan as an interstate common carrier offering.

Under the Plan, any ILEC that is providing tandem transit service on June 30, 2007 must continue to do so throughout the eight-year term of the Plan. Rates will be subject to the standards contained in Sections 201 and 202 of the Communications Act and subject to additional constraints. Specifically, the tandem transit rate for the first two years of the Plan (*i.e.*, from July 1, 2005 through June 30, 2007) may be no higher than the rate for such service on June 30, 2005, the day before the Plan takes effect. During the three-year period beginning July 1, 2007, the Plan establishes a revenue cap for tandem transit service based on the weighted average revenue per minute generated by interstate and intrastate jointly provided switched access, local transiting, and CMRS transiting traffic at June 30, 2005 rates evaluated at 2006 base period demand. Beginning July 1, 2010, this cap will increase by 3 percent per year. These revenue caps, once established, will also apply to competitive providers of tandem transit service.

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[5] An exception exists for equal access traffic where an access tandem located outside such area is the source of equal access functionality, in which case the CRTC must designate such access tandem as its Edge for carriers that require equal access for interconnection.

II. Rate Restructuring

The Plan begins immediately, on July 1, 2005, to replace today's myriad of intercarrier compensation rate structures and levels with a fundamentally new uniform system applicable to all traffic. Increased federal end user charges (*i.e.*, federal subscriber line charges or "SLCs") and, where necessary, new explicit federal universal service support mechanisms will address the Plan's elimination of rate regulated carriers' intercarrier compensation revenues (as will revenue from interconnection transport and transiting charges, revenue from a transitional uniform termination charge, and terminating transport revenues for CRTCs, discussed above).

A. Intercarrier Compensation Transition

In four annual steps commencing July 1, 2005, the Plan transitions from today's array of rate structures and levels to a single, interim termination rate of $0.000175 per minute for all traffic. Beginning July 1, 2007, with no sunset, carriers also may receive unified intercarrier payments (*i.e.*, without regard to the historical classification of the traffic) for tandem transiting services, interconnection transport, and, for CRTCs, terminating transport revenues at prescribed rates for inbound traffic. The transition unfolds as follows:

Interstate and intrastate access charges. In four roughly equal annual steps beginning July 1, 2005, interstate and intrastate access charge revenues (except for interconnection transport, tandem transiting, and CRTC terminating transport) transition to a uniform $0.000175 per minute interim termination rate. Origination charges are transitioned fully to bill and keep. Facilities-based transport charges are targeted in the third step, unless reductions in these charges are necessary earlier to achieve the required reductions. If there is substantial disparity between rate levels in the two jurisdictions, the Plan calls for initial targeting of reductions to the jurisdiction with the higher rates. In CRTC-served areas, originating access is also targeted to the extent it is above the current price cap LEC average rate for interstate end office switching and provides additional options for CRTCs. During this transition, CLEC switched access rates are capped at the ILEC's level.

Facilities-based transport charges. Common and dedicated switched transport charges (including tandem switching, entrance facilities, and other rate elements directly associated with those elements) shift to the new rate structures described above on July 1, 2007, at the third step of the Plan, which is concurrent with the implementation of the new uniform network interconnection rules. Rate provisions for interconnection transport and tandem transit service are described above. At the start of the third step, network transport (*i.e.*, transport a carrier provides on its own side of its Edge) shifts to bill and keep.

CRTC Terminating Transport. Also effective July 1, 2007, CRTC transport charges shift to a new rate structure. Under the Plan, the weighted average of common and dedicated switched terminating transport rates across a CRTC holding company (including a single study area CRTC) may not exceed $0.0095 per terminating minute, or such lower rate that the CRTC elects. Within any single study area of a multi-study area

CRTC holding company, such weighted average rate may not exceed $0.013 per terminating minute.

Non-access intercarrier compensation other than CMRS-CRTC and ILEC-ILEC. In any state that has ordered carriers to exchange all non-access and ISP-bound traffic, including FX traffic (which is treated under the Plan as non-access), on a bill-and-keep basis, such traffic will continue to be exchanged on a bill-and-keep basis. In all other states, the Plan establishes a uniform default rate, effective July 1, 2005, of $0.0003525 per minute. This rate ramps down, in three additional equal steps, to $0.000175 per terminating minute, effective July 1, 2008. Finally, the Plan eliminates all new market restrictions and growth caps for ISP-bound traffic, subject to rate-based protections for growth in out-of-balance traffic exchanged between an ILEC and a CLEC.

Wireline-Wireless Traffic. The Plan provides that, in the wireless-to-wireline direction, traffic will be subject to reciprocal compensation if, at the beginning of the call, it originates and terminates within the same MTA. In the wireline-to-wireless direction, traffic will be subject to reciprocal compensation if, at the beginning of the call, it is destined for a wireless NXX that is rated in the ILEC's rate center or a rate center covered by EAS arrangements. For traffic exchanged between a CMRS provider and a CRTC, the Plan establishes a default initial reciprocal compensation rate equal to the lower of the rate contained in any agreement between the two parties or, in the absence of such an agreement, $0.0125 per minute, effective July 1, 2005. Once established, this rate transitions in three additional equal steps to the uniform, interim termination rate of $0.000175 per minute.

Intercarrier compensation for other non-access traffic will ramp down in four equal steps to the uniform termination rate of $0.000175 per terminating minute. Once the uniform, interim termination rate is established for all traffic on July 1, 2008, the Plan calls for a two-year hiatus to provide a period of stability for carriers and their customers alike, until June 30, 2010. At that time, carriers begin a final transition under which they will reduce this rate by half, to $0.0000875 per minute on July 1, 2010, and implement bill and keep on July 1, 2011.

CRTCs may seek a mid-course correction from the Commission if they can show that the implementation of the Plan is causing a decline in special access demand.

B. Alternative Revenue Recovery

Increased SLCs and, where necessary, new explicit federal universal service support mechanisms will address the elimination of intercarrier compensation cost recovery by rate regulated carriers. SLC rate cap increases are carefully measured and take place over a substantial transition period in order to avoid rate shock for consumers. In addition, universal service support protects low-income Lifeline customers from any SLC increases on their Lifeline service.

1. Non-CRTC End User Rate Transition

Subject to overall revenue constraints, non-CRTC ILECs may (but are not required to) increase SLCs over a four-step transition period, beginning July 1, 2005, subject to three rate limitations, as follows:

- Neither the nationwide $6.50 residential/single line business SLC cap nor the *average* residential SLC rate in a study area can increase by more than $0.75/month in steps 1 and 2, or by more than $1.00 in Steps 3 and 4.

- No individual SLC rate can increase by more than $0.95/month in Steps 1 and 2, or by more than $1.20/month in Steps 3 and 4.

- Other SLC caps (non-primary residential and multiline business) increase only to the extent they would otherwise be below the residential SLC cap.

As a result of this transition, the overall monthly SLC cap for all non-CRTCs will be uniform at $10.00 at the beginning of Step 4. Beginning July 1, 2009 (*i.e.*, the beginning of Step 5), any individual monthly SLC that is constrained below $10.00 as a result of the rate increase limits above may rise to that level (although no carrier is required to increase any SLC at any time). Also beginning July 1, 2009, the monthly nationwide SLC cap for non-CRTC price cap carriers will be indexed for inflation.

2. CRTC Rate Transition

For CRTCs, the SLC transition is even more measured. Between Step 1 and Step 5, monthly residential SLC caps increase from $6.50 to $9.00 in $0.50 annual increments. In Steps 1 through 3, other monthly SLC caps increase only to the extent that they would otherwise be below the residential SLC cap. In Step 4, the multiline business SLC cap increases to $10.00. After a hiatus, a CRTC has the option to increase its monthly residential SLC cap to $9.50, effective July 1, 2010, and to $10.00, effective July 1, 2011. CRTC SLC rates are also subject to the same limits on average SLC rate increases in a study area as non-CRTCs.

C. Price Cap ILEC Pricing Flexibility

The Plan provides certain pricing flexibility for price cap ILECs with respect to the application of the SLC, which is implemented in two steps. Throughout both steps, safeguards prevent a carrier's exercise of pricing flexibility from affecting the calculation of USF support.

Effective July 1, 2005, the Plan grants specific forms of SLC pricing flexibility, subject to significant consumer protection safeguards. These safeguards ensure that (1) the per-line SLC cap increase limits outlined above remain in effect and prevent additional SLC increases; (2) Section 201 and 202 standards apply to ensure that SLCs remain just, reasonable, and not unreasonably discriminatory; (3) overall limits on revenue recovery prevent a price cap ILEC from increasing recovery above what would be allowed in the absence of pricing flexibility; and (4) the new Mass Market Service Category and an Enterprise Service Category prevent recovery shifting from enterprise to mass market customers.

Subject to these protections, price cap ILECs may exercise the following SLC pricing flexibility, effective July 1, 2005:

- Geographic deaveraging by zone, with up to four zones, each containing at least 15 percent of lines;
- Volume, term, and growth commitment pricing;
- Flexible application of SLCs to Centrex, ISDN, and other derived channel services, by service category;
- Contract tariffing, not subject to price caps or revenue limits; and
- SLCs may be rolled into the price of service bundles, but must be tracked separately.

Effective July 1, 2008, price cap ILECs gain additional forms of SLC pricing flexibility, as follows:

- Overall SLC revenue limits no longer apply;
- The per-line SLC cap no longer applies to end user charges offered under contract tariffs (the per-line SLC cap otherwise remains in effect);
- Zone deaveraging, with no limitations on the establishment of pricing zones; and
- Tariff filings for price changes may be made on one day's notice.

III. Universal Service

The Plan creates two new universal service mechanisms to provide explicit support for intercarrier compensation amounts otherwise not recoverable under the Plan's rate restructuring rules. One is applicable to areas served by non-CRTC ILECs and one is applicable to areas served by CRTCs. The primary differences between the two are the extent of availability (during a transitional period) of this new support to competitive eligible telecommunications carriers (CETCs) and the disaggregation options available to recipients.

The first, the "Intercarrier Compensation Recovery Mechanism," or "ICRM," provides support to non-CRTC ILECs. It is available, on a per-eligible-line basis, to all CETCs competing with these carriers. By default, ICRM is available as a uniform, per-line amount to all eligible lines (*i.e.*, no disaggregation). ILECs have two alternatives to this default. A recipient ILEC may establish a Zone Disaggregation Plan. An ILEC may instead establish a Residential Targeting Plan, under which all ICRM support is targeted to residential lines based on a showing that the total revenue opportunity for serving a residential line is less than that for serving a business line.

The second, the "Transitional Network Recovery Mechanism," or "TNRM," is available to CRTCs. Its availability to CETCs competing with these carriers is limited to those (including new entrants) that lose access revenues as a result of the plan. Because CMRS carriers do not receive switched access charges, this transitional restriction is intended to allow only wireline CETCs to receive support from the TNRM, on a per-eligible line basis. The Plan calls for the Commission to review whether additional CETCs should receive support from the TNRM at the conclusion of the initial term of the Plan, in 2013. TNRM may be disaggregated in accordance with the Commission's existing rules governing disaggregation of support for rural carriers.

In addition, the Plan also makes several improvements to existing support mechanisms, including the rural high cost loop support mechanism (removing the cap, unfreezing the national average unseparated cost per working loop, and eliminating the rule reducing support for carriers serving over 200,000 lines) and the safety valve support mechanism (providing augmented support in the partial year and first full year after an acquisition closes, and creating "Safety Valve II," to provide analogous support for switching and transport investment). In addition, the Plan provides an option for certain price cap CRTCs to elect to receive support under the non-rural, high-cost mechanism. Finally, the Plan provides that the existing per-line universal service support amount will remain portable to CETCs.

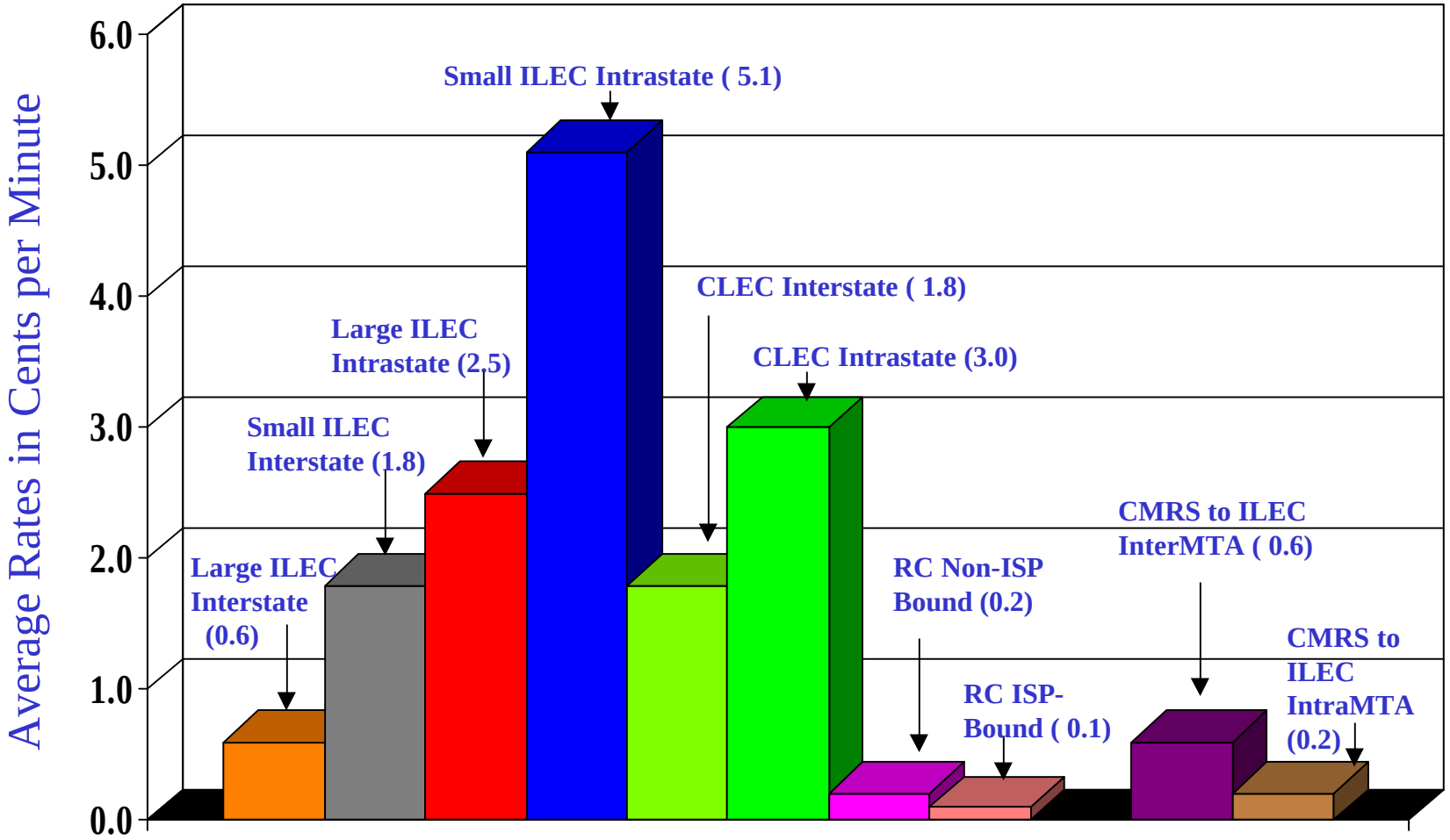
To fund all existing and new mechanisms, the Plan creates a new uniform universal service contribution methodology based on "units" applied to unique working telephone numbers and high-capacity network connections. Under this methodology, each unique working telephone number is assessed one unit (with ½ unit assessed to numbers used for one-way, data-only CMRS paging service), and the Plan allows CMRS carriers, CRTCs, and CRTC competitors to phase this assessment in for additional numbers in a residential household account. Residential DSL, cable modem, and other high-speed, non-circuit-switched connections are also assessed one unit, harmonizing today's disparate treatment of DSL and cable modem services. For business connections, the Plan establishes a four-tiered system of assessments for non-switched, dedicated network connections ranging from one to 100 units depending on capacity.

Appendix C

Typical Interconnection Arrangements in Today's Environment

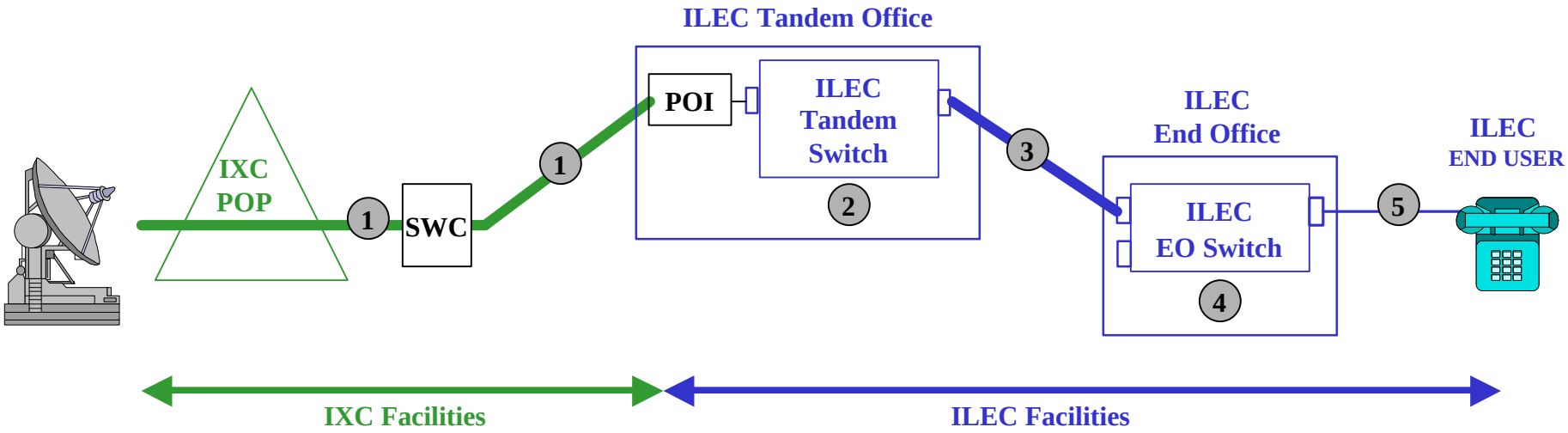
Disclaimer: The POI locations are for illustrative purposes only. POI locations may vary for each call flow, are subject to various disputes and varying state arbitration decisions.

Intercarrier Compensation Rates



High (¢/min):	1.5	8.9	9.9	34.9	6.8	35.9	0.3	0.1	8.9	0.3
Low (¢/min):	0.5	0.3	0.4	0.7	0.2	0.4	0.0	0.0	0.2	0.0

IXC & ILEC Traffic – Tandem Routed



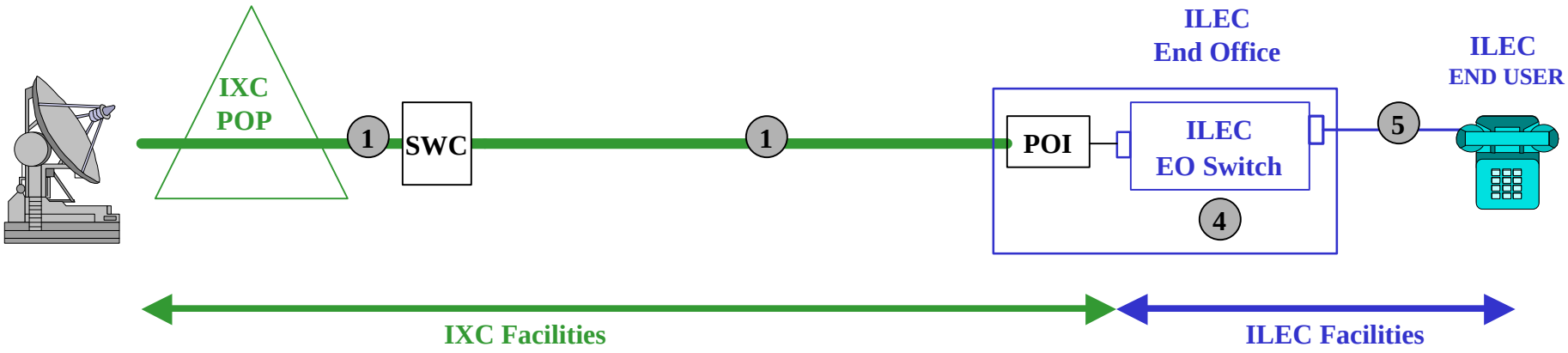
Financial Responsibility: IXC financially responsible for the cost of both directions of traffic from the ILEC end-user to IXC POP. Subject to widely varying rates depending on jurisdiction (interstate/intrastate) and widely varying local/long distance calling scopes.

For Both Directions of Traffic

	NETWORK FUNCTION	PAID BY	PAID TO
1	Dedicated Transport	IXC	Dedicated Transport Provider*
2	Tandem Switching	IXC	ILEC
3	Common Transport	IXC	ILEC
4	End Office Switching	IXC	ILEC
5	Common Line	IXC	ILEC

*IXC may self-provision.

IXC & ILEC Traffic – End Office Routed



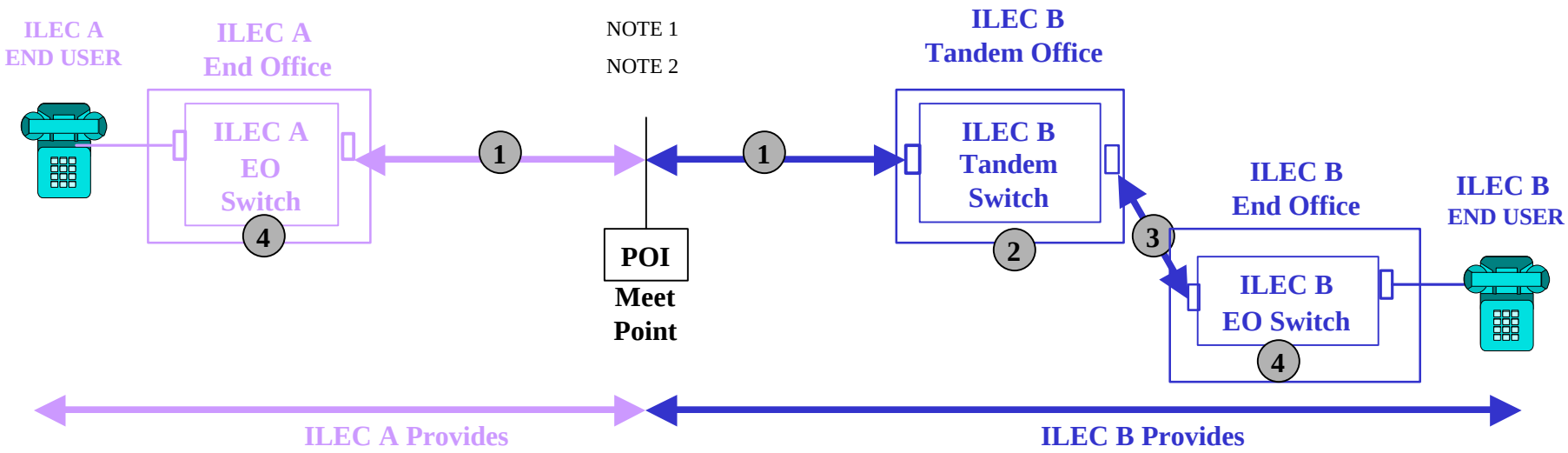
Financial Responsibility: IXC financially responsible for the cost of both directions of traffic from the ILEC end-user to IXC POP. Subject to widely varying rates depending on jurisdiction (interstate/intrastate) and widely varying local/long distance calling scopes.

For Both Directions of Traffic

	NETWORK FUNCTION	PAID BY	PAID TO
1	Dedicated Transport	IXC	Dedicated Transport Provider*
4	End Office Switching	IXC	ILEC
5	Common Line	IXC	ILEC

*IXC may self-provision.

ILEC to ILEC



Financial Responsibility: Each company is responsible for facilities on its side of the POI or meet point. Generally, the financial responsibility is Calling Party Network Pays (CPNP). However, varying rate structures lead to asymmetrical charges and transport obligations. Often times the compensation arrangement is bill and keep.

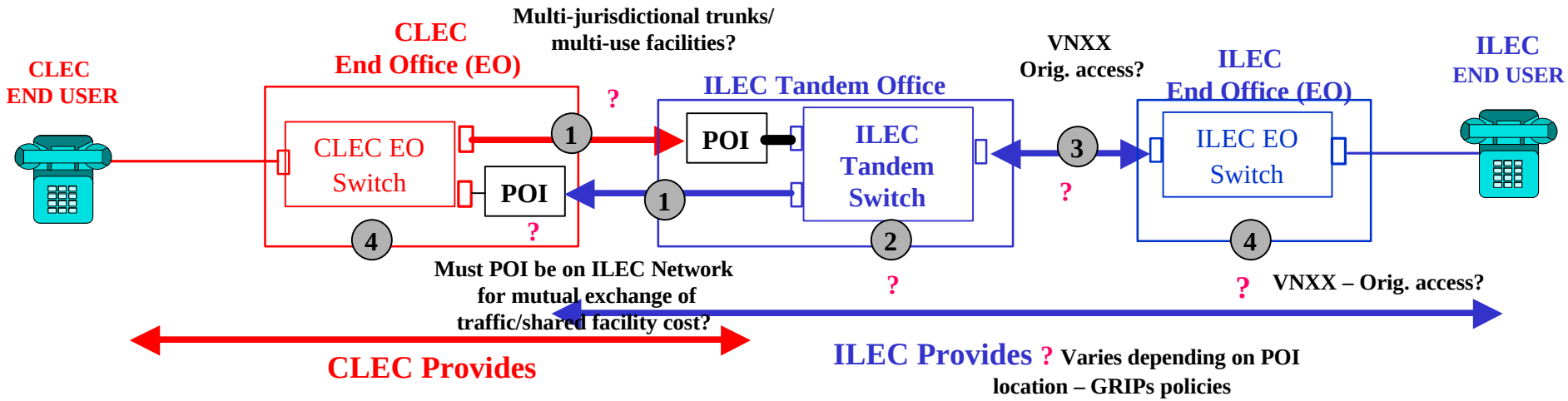
		Originating from ILEC A			Originating from ILEC B	
	NETWORK FUNCTION	**PAID BY**	**PAID TO**		**PAID BY**	**PAID TO**
1	Transport – jointly provisioned	Note 3	Note 3		Note 3	Note 3
2	Tandem Switching	ILEC A	ILEC B		N/A	N/A
3	Common Transport	ILEC A	ILEC B		N/A	N/A
4	End Office Switching	ILEC A	ILEC B		ILEC B	ILEC A

Note 1 – Carries traffic from a variety of carriers.

Note 2 – Separate facilities are established between the ICO and ILEC for carrying EAS type traffic.

Note 3 – Each ILEC provides facilities for both originating and terminating traffic to the POI or meet point.

CLEC & ILEC Traffic – Tandem Routed



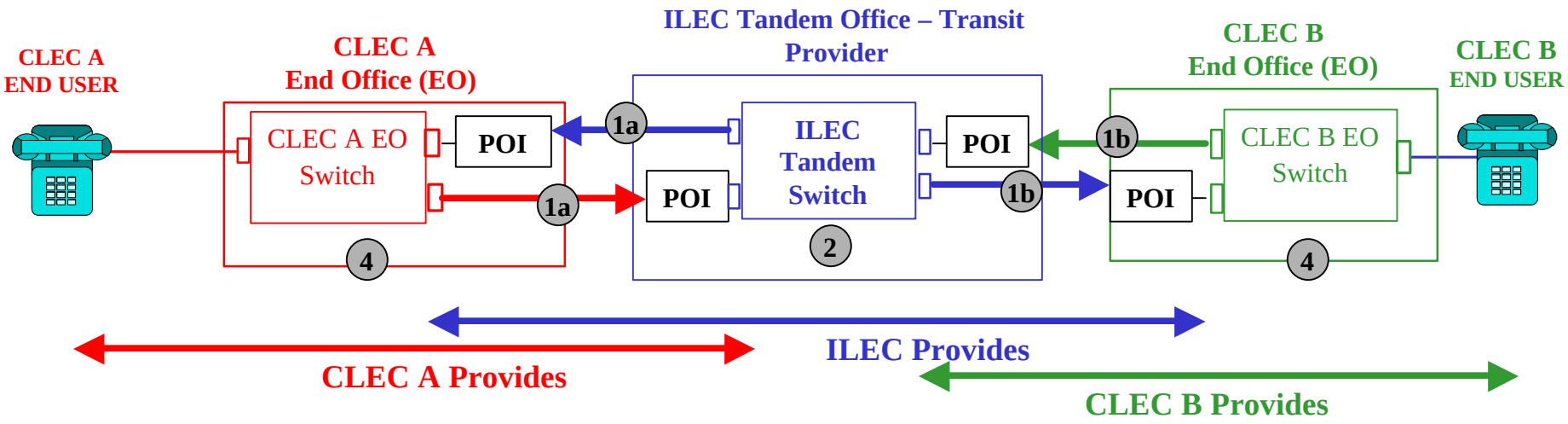
Financial Responsibility: CPNP.

Areas of Dispute: 1) Section 51.711(a)(3)(application of the tandem rate rule); 2) Use of Virtual NXX; 3) Network Function 1 may be subject to dispute regarding both physical & financial responsibility.

		Originating from CLEC			Originating from ILEC	
	NETWORK FUNCTION	**PAID BY**	**PAID TO**		**PAID BY**	**PAID TO**
1	Dedicated Transport	CLEC	Dedicated Transport Provider*		ILEC	CLEC
2	Tandem Switching	CLEC	ILEC		N/A	N/A
3	Common Transport	CLEC	ILEC		N/A	N/A
4	End Office Switching	CLEC	ILEC		ILEC	CLEC

*CLEC may self-provision.

CLEC to CLEC Traffic

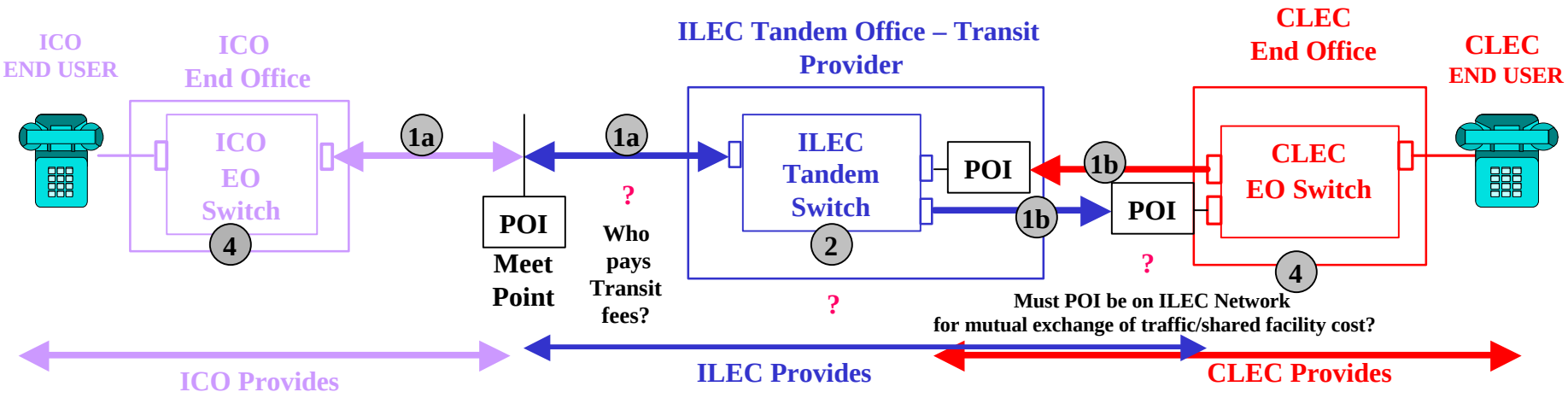


Financial Responsibility: CPNP governs traffic exchange. Originating carrier pays ILEC for transiting service. Switching and transport (excluding ILEC switching and transport) is typically bill & keep.

Area of Dispute:. 1) Network Function 1a & 1b may be subject to dispute regarding both physical & financial responsibility; 2) ILEC tandem transit obligation/rate

		Originating from CLEC A			Originating from CLEC B	
	NETWORK FUNCTION	**PAID BY**	**PAID TO**		**PAID BY**	**PAID TO**
1	Dedicated Transport	a) CLEC A b) CLEC A	a) CLEC A or ILEC b) CLEC B		a) CLEC B b) CLEC B	a) CLEC A or ILEC b) CLEC B or ILEC
2	Tandem Switching	CLEC A	ILEC		CLEC B	ILEC
4	End Office Switching	CLEC A	CLEC B		CLEC B	CLEC A

Independent Company (ILEC Tandem Routed) & CLEC



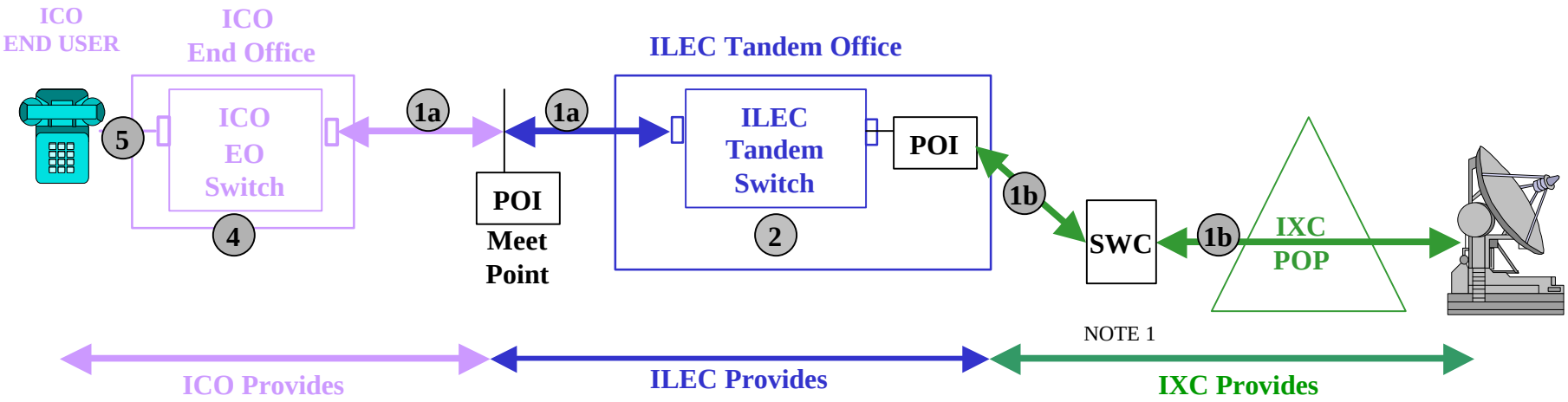
Financial Responsibility: The ILEC and ICO are responsible for facilities on their side of the POI or meet point. CPNP for transiting, transport and End Office switching.

Areas of Dispute: 1) ICOs dispute that they are obligated to pay for transiting of calls beyond the meet point because they believe the POI needs to be on the ICO's network (1a and 2); 2) Network Function 1b may be subject to dispute regarding both physical & financial responsibility. 3) ILEC tandem transit obligation/rate

		Originating from ICO			Originating from CLEC	
	NETWORK FUNCTION	**PAID BY**	**PAID TO**		**PAID BY**	**PAID TO**
1	Transport a) jointly provisioned b) dedicated	a) ICO b) ICO	a) ILEC* b) CLEC or ILEC		a) CLEC b) CLEC	a) ILEC & ICO b) CLEC or ILEC
2	Tandem Switching	ICO	ILEC		CLEC	ILEC
4	End Office Switching	ICO	CLEC		CLEC	ICO

* ICO will provide facilities to the meet point and ILEC will charge the ICO for facilities from meet point to the tandem.

Independent Company (ILEC Tandem Routed) & IXC



Financial Responsibility: Each company is responsible for facilities on its side of the POI or meet point. IXC is financially responsible for traffic in both directions from the ICO End User to the IXC POP. Rates vary widely by jurisdiction and widely varying ILEC local/long distance calling scopes.

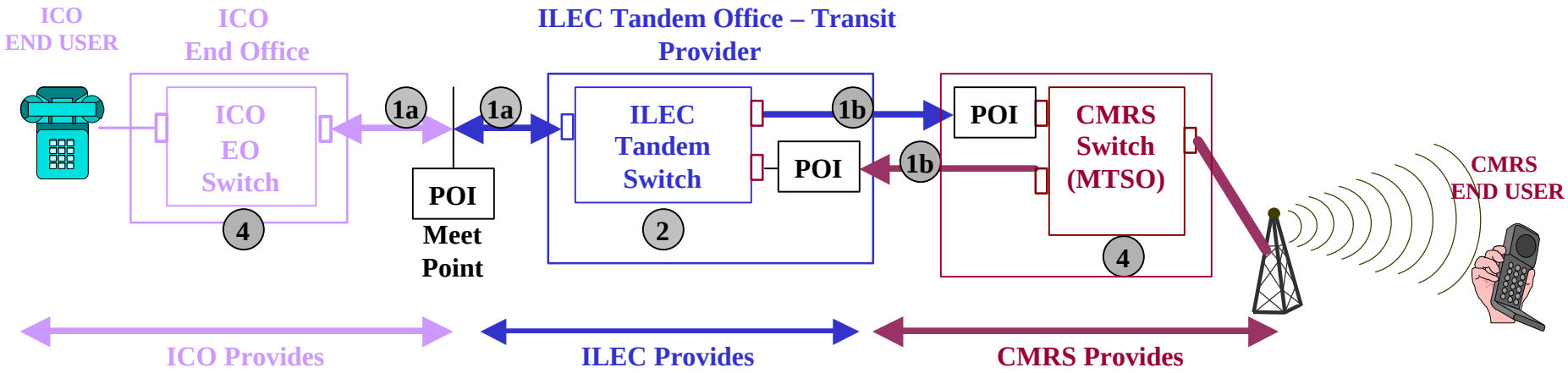
For Both Directions of Traffic

	NETWORK FUNCTION	PAID BY	PAID TO
1	Transport a) jointly provisioned b) dedicated	a) IXC b) IXC*	a) ICO & ILEC b) Dedicated Transport Provider*
2	Tandem Switching	IXC	ILEC
4	End Office Switching	IXC	ICO
5	Common Line	IXC	ICO

* IXC may self-provision

Note 1 – The most typical arrangement is for the IXC to direct route to the ICO where traffic volumes warrant such direct connection.

Independent Company (ILEC Tandem Routed) & CMRS Provider (IntraMTA Traffic)



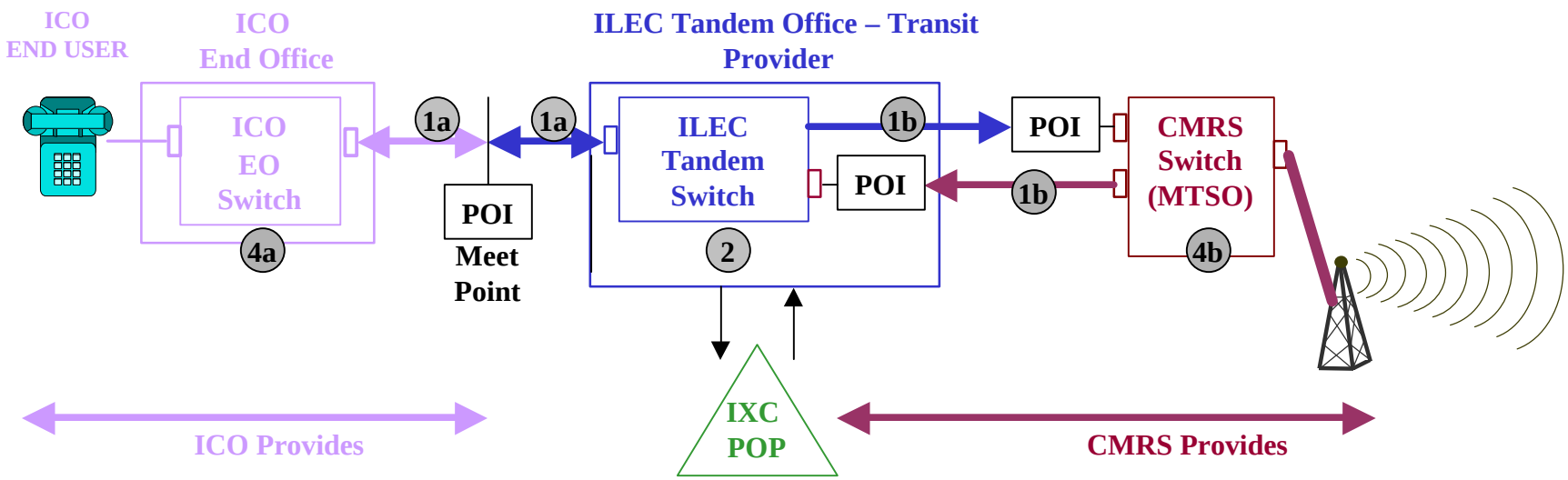
Financial Responsibility: Each company is responsible for facilities on its side of the POI or meet point. The financial responsibility is CPNP for IntraMTA traffic.

Areas of Dispute: 1) What traffic is subject to reciprocal compensation (IntraMTA rule)?; 2) Do access charges apply to CMRS providers?; 3) Who should pay for the transiting function provided by the ILEC (1a, 2)?; 4) ICOs dispute that they are obligated to pay for transiting of calls beyond the meet point; 5) Network Function 1b may be subject to dispute regarding physical & financial responsibility; 6) Disputes surrounding separate rating & routing points for NXXs;
7) Dispute over Section 51.711(a)(3) (application of the tandem rate rule); 8) ILEC tandem transit obligation / rate

		Originating from ICO			Originating from CMRS	
	NETWORK FUNCTION	**PAID BY**	**PAID TO**		**PAID BY**	**PAID TO**
1	Transport a) jointly provisioned b) dedicated	a) ICO b) ICO	a) ILEC b) CMRS or ILEC		a) CMRS b) CMRS*	a) ICO & ILEC b) CMRS or ILEC*
2	Tandem Switching	ICO	ILEC		CMRS	ILEC
4	Switching a) End Office b) MTSO Switching	b) ICO	b) CMRS		a) CMRS	a) ICO

*Typically, the ILEC will provision the facility and charge the CMRS provider based on the percent of the facility used.

Independent Company to CMRS Provider Routed via an IXC (IntraMTA Traffic)



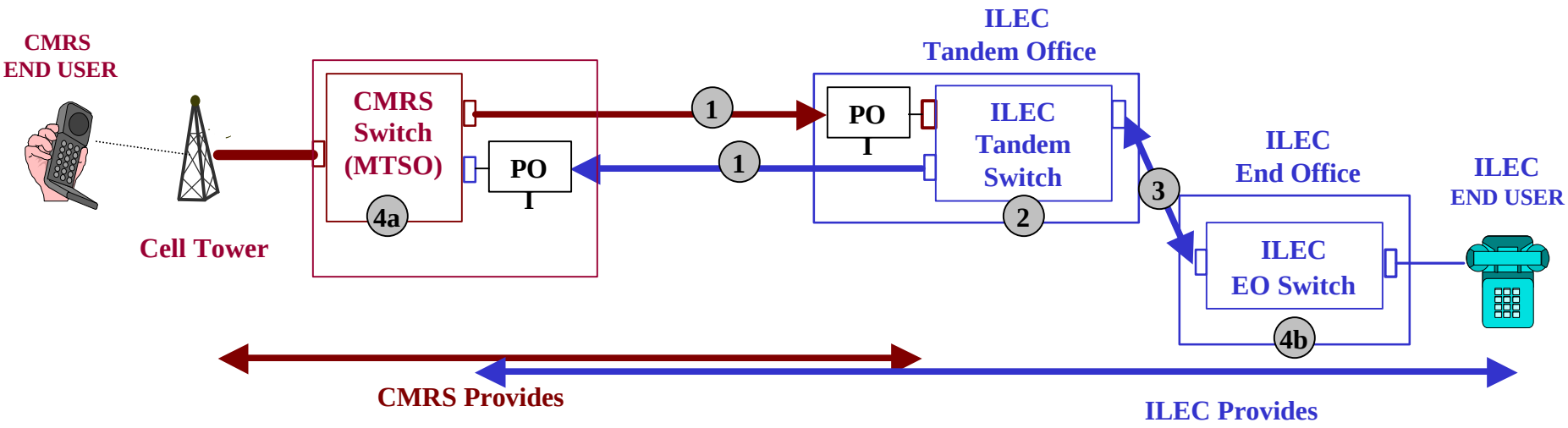
Areas of Dispute: 1) ICOs often contest any obligation to deliver traffic outside their exchange boundary. As a result, they will send traffic destined to a CMRS carrier via an IXC. In this circumstance, disputes arise over the appropriate compensation regime to be applied (access or reciprocal compensation) and which carrier bears financial responsibility for terminating the call, including transiting; 2) ILEC tandem transit obligation/rate

Originating from ICO

	NETWORK FUNCTION	PAID BY	PAID TO
1	Transport a) Jointly provisioned b) Dedicated	a) IXC b) IXC	a) ILEC & ICO b) ILEC or CMRS
2	Tandem Switching	IXC	ILEC
4	Switching a) End Office b) MTSO Switching	a) IXC b) Note 1	a) ICO b) Note 1

Note 1 – CMRS carriers receive no compensation from interconnecting carriers for MTSO switching.

CMRS Provider & ILEC (IntraMTA Traffic)



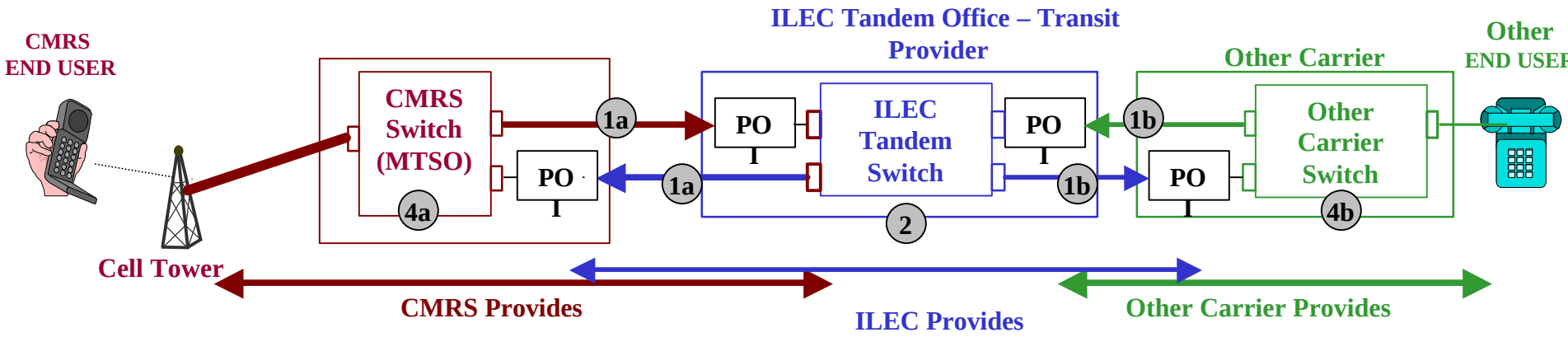
Financial Responsibility: CPNP for traffic originating and terminating within the same MTA.

Areas of Dispute: 1) When traffic originates on an ILEC network and terminates outside the ILEC local calling area, many anomalies and controversies exist; 2) Section 51.711(a)(3) (application of the tandem rate rule); 3) See slides 7 & 8 & 9 for additional areas of dispute.

		Originating from CMRS			Originating from ILEC	
	NETWORK FUNCTION	**PAID BY**	**PAID TO**		**PAID BY**	**PAID TO**
1	Transport	CMRS*	ILEC or CMRS*		ILEC*	CMRS or ILEC*
2	Tandem Switching	CMRS	ILEC		N/A	N/A
3	Common Transport	CMRS	ILEC		N/A	N/A
4	Switching a) MTSO Switching b) End Office	b) CMRS	b) ILEC		a) ILEC	a) CMRS

* Typically, the ILEC will provision the facility and charge the CMRS provider based on the percent of the facility used.

CMRS Provider & Other Carriers (CMRS & CLECs)



Financial Responsibility: CPNP for traffic subject to reciprocal compensation. Switching and transport (excluding ILEC switching and transport)is typically bill & keep.

Areas of Dispute: 1) What traffic is subject to reciprocal compensation (IntraMTA rule)?; 2) Network Function 1b may be subject to dispute regarding both physical & financial responsibility; 3) ILEC tandem transit obligation/rate

		Originating from CMRS			Originating from Other Carrier	
	NETWORK FUNCTION	**PAID BY**	**PAID TO**		**PAID BY**	**PAID TO**
1	Transport	a) CMRS* b) CMRS	a) ILEC or CMRS* b) OTHER or ILEC		a) OTHER b) OTHER	a) CMRS or ILEC* b) OTHER or ILEC
2	Tandem Switching	CMRS	ILEC		OTHER	ILEC
4	Switching a) MTSO Switching b) End Office	b) CMRS	b) OTHER		a) OTHER	a) CMRS

* Typically, the ILEC will provision the facility and charge the CMRS provider based on the percent of the facility used.

Appendix D

ICF Proposal
Diagrams

The following slides depict interconnection and compensation under the ICF Plan

August 13, 2004

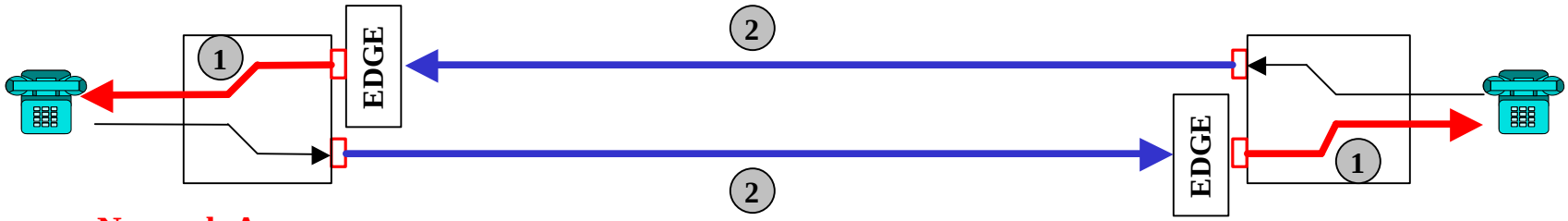
Network Diagrams

- These slides depict interconnection under the default network interconnection rules, including CRTC Transport implemented at start of Step 3.
- Only difference between intercarrier compensation at Steps 4-6 and Step 7 is in the payment for the terminating (End Office) Switching & Loop. At Steps 4-6, this is paid by interconnecting carrier (not transit provider) to the terminating carrier.
- Uniform termination rate, implemented at the start of Step 4:
  - .000175/Min. Steps 4 & 5
  - .0000875/Min. Step 6

ICF Plan Terminology: Direct Interconnection

(effective Step 3)

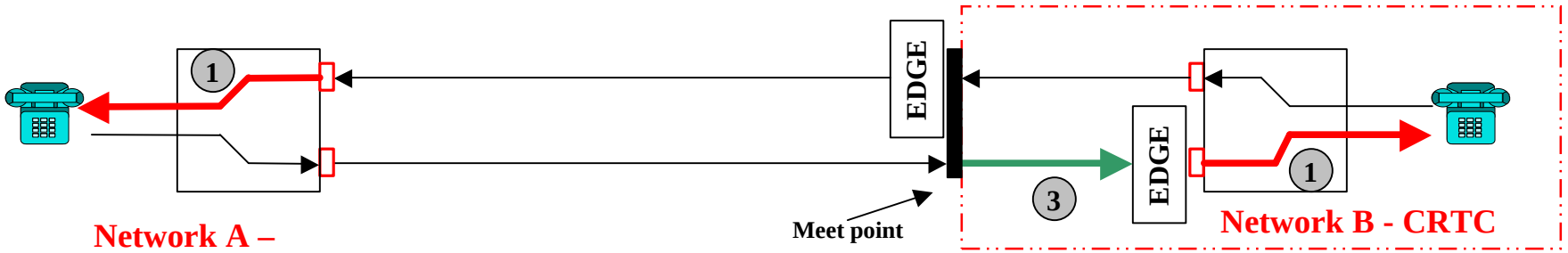
Basic Case – Between Two Non-CRTC Networks



Network A –
Hierarchical or Non-Hierarchical

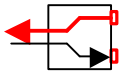
Network B –
Hierarchical or Non-Hierarchical

Between a CRTC Network and a Hierarchical or Non-Hierarchical Network



Network A –
Hierarchical or Non-Hierarchical

Legend:



Switching and Intra-Network Transport

1 — Termination (Steps 4-6)

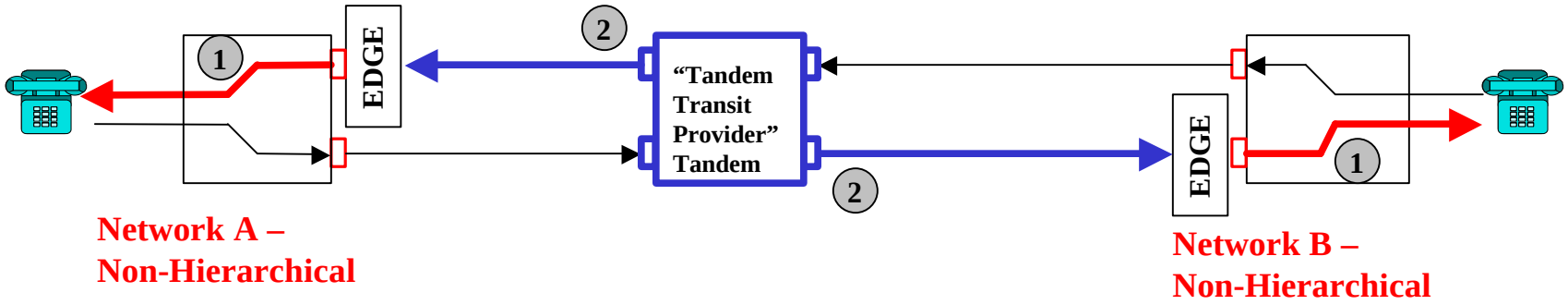
2 — Interconnection Transport

3 — CRTC Terminating Transport

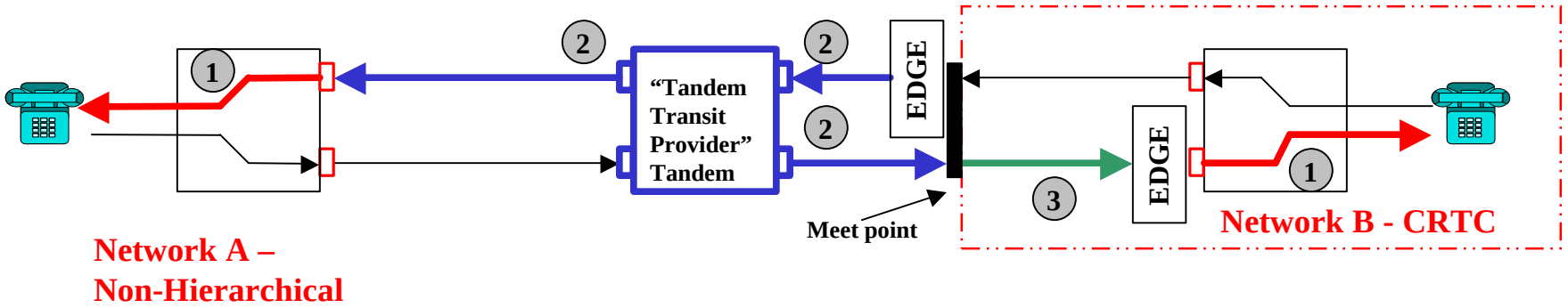
ICF Plan Terminology: Indirect Interconnection

(effective Step 3)

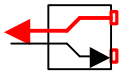
Basic Case – Between Two Non-Hierarchical Networks



Between a Non-Hierarchical Network and a CRTC Network



Legend:



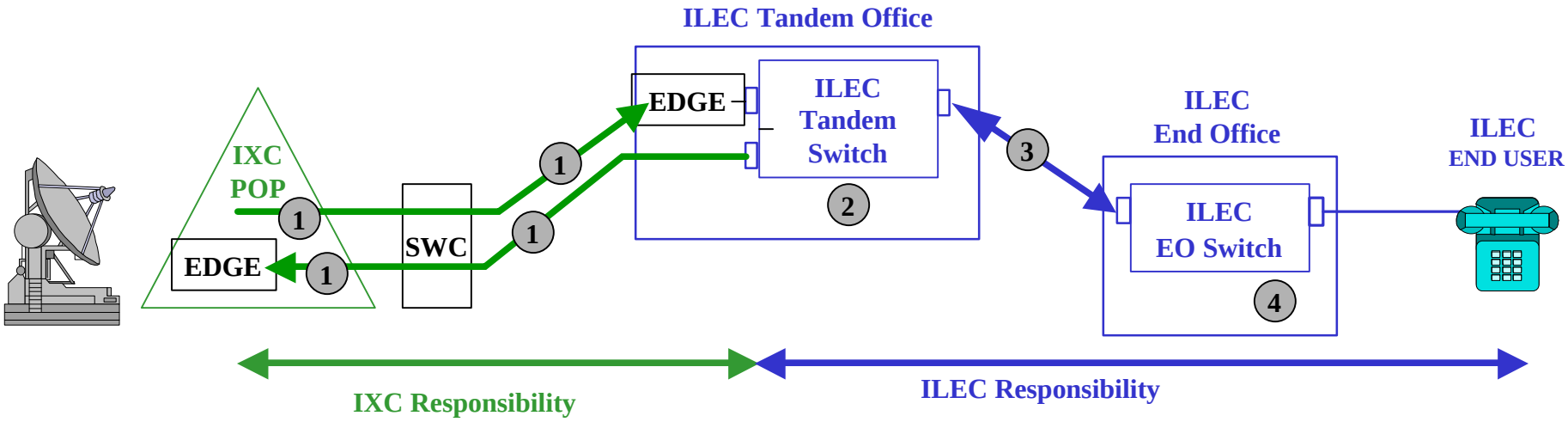
Switching and Intra-Network Transport

1 Termination (Steps 4-6)

2 Tandem Transit Service

3 CRTC Terminating Transport

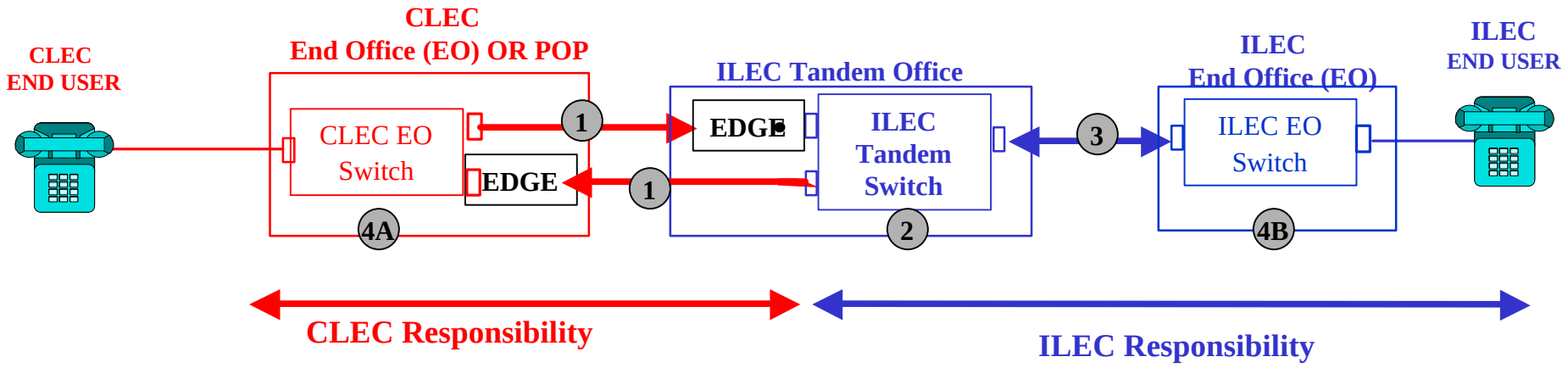
IXC - ILEC Traffic – Tandem Routed
(Non-Hierarchical to Hierarchical)



		Originating from IXC			Originating from ILEC	
	NETWORK FUNCTION	**PAID BY**	**PAID TO**		**PAID BY**	**PAID TO**
1	Interconnection Transport (Note 1)	IXC	Interconnection Transport Provider		IXC	Interconnection Transport Provider
2	Tandem Switching	ILEC	Bill and Keep		ILEC	Bill and Keep
3	Common Transport	ILEC	Bill and Keep		ILEC	Bill and Keep
4	End Office Switching and Loop	IXC (Step 4-6) ILEC (Step 7)	ILEC Bill and Keep		ILEC	Bill and Keep

Note 1: Interconnection Transport may be self-provisioned by the Non-Hierarchical Network, provisioned by a third party, or leased by the Non-Hierarchical Network from the Hierarchical Network at a 50% discount from the applicable interstate rate.

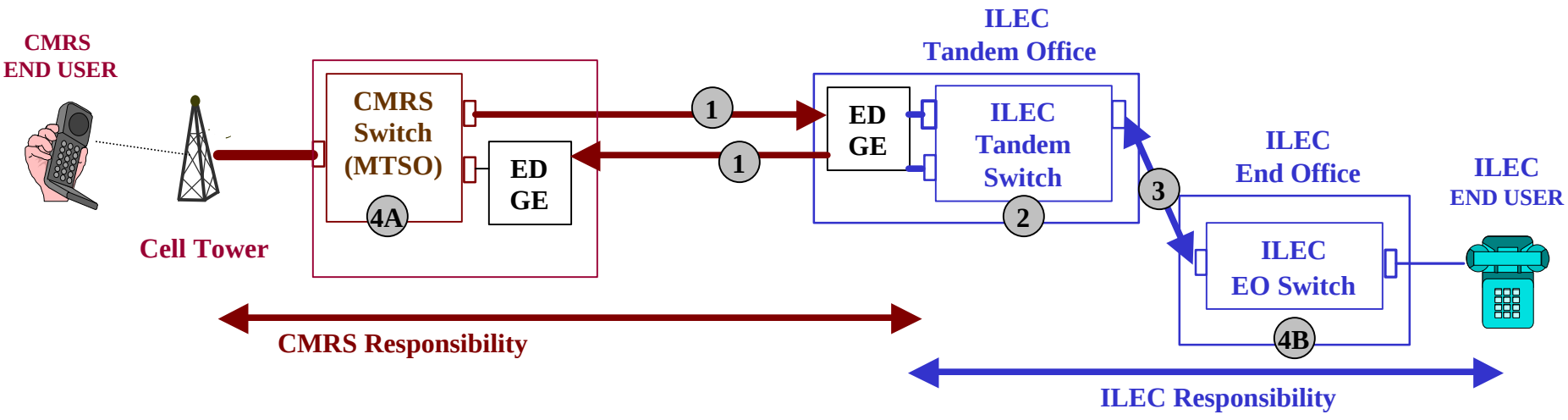
CLEC - ILEC Traffic
(Non-Hierarchical to Hierarchical)



		Originating from CLEC			Originating from ILEC	
	NETWORK FUNCTION	**PAID BY**	**PAID TO**		**PAID BY**	**PAID TO**
1	Interconnection Transport (Note 1)	CLEC	Interconnection Transport Provider		CLEC	Interconnection Transport Provider
2	Tandem Switching	ILEC	Bill and Keep		ILEC	Bill and Keep
3	Common Transport	ILEC	Bill and Keep		ILEC	Bill and Keep
4	End Office Switching and Loop					
	A	CLEC	Bill and Keep		ILEC (Step 4-6) CLEC (Step 7)	CLEC Bill and Keep
	B	CLEC (Step 4-6) ILEC (Step 7)	ILEC Bill and Keep		ILEC	Bill and Keep

Note 1: Interconnection Transport may be self-provisioned by the Non-Hierarchical Network, provisioned by a third party, or leased by the Non-Hierarchical Network from the Hierarchical Network at a 50% discount from the applicable interstate rate.

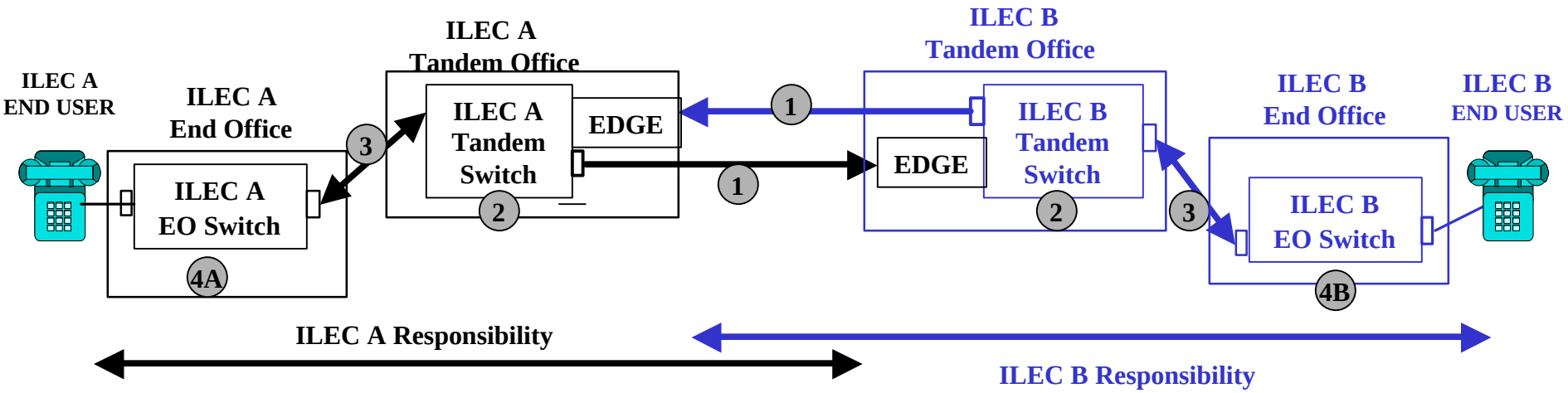
CMRS Carrier - ILEC Traffic
(Non-Hierarchical to Hierarchical)



		Originating from CMRS			Originating from ILEC	
	NETWORK FUNCTION	**PAID BY**	**PAID TO**		**PAID BY**	**PAID TO**
1	Interconnection Transport (Note 1)	CMRS	Interconnection Transport Provider		CMRS	Interconnection Transport Provider
2	Tandem Switching	ILEC	Bill and Keep		ILEC	Bill and Keep
3	Common Transport	ILEC	Bill and Keep		ILEC	Bill and Keep
4	Switching and Loop A	CMRS	Bill and Keep		ILEC (Step 4-6) CMRS (Step 7)	CMRS Bill and Keep
	B	CMRS (Step 4-6) ILEC (Step 7)	ILEC Bill and Keep		ILEC	Bill and Keep

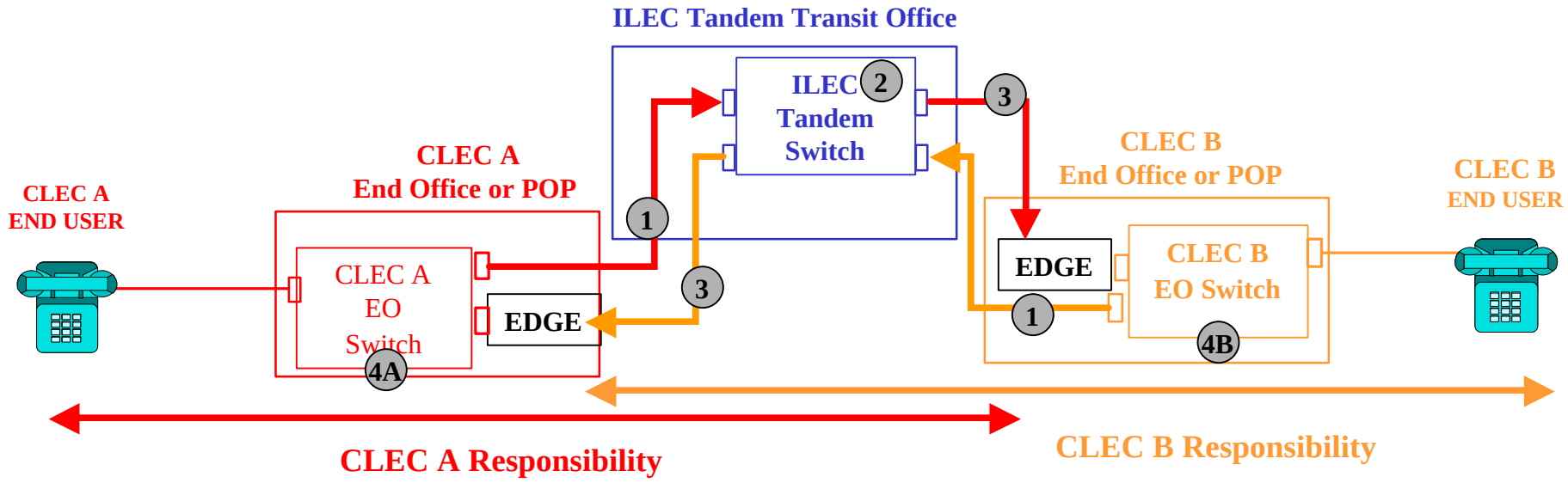
Note 1: Interconnection Transport may be self-provisioned by the Non-Hierarchical Network, provisioned by a third party, or leased by the Non-Hierarchical Network from the Hierarchical Network at a 50% discount from the applicable interstate rate.

ILEC - ILEC Traffic
(Hierarchical to Hierarchical)



		Originating from ILEC A			Originating from ILEC B	
	NETWORK FUNCTION	**PAID BY**	**PAID TO**		**PAID BY**	**PAID TO**
1	Interconnection Transport	ILEC A	Interconnection Transport Provider		ILEC B	Interconnection Transport Provider
2	Tandem Switching	ILEC A	Bill and Keep		ILEC B	Bill and Keep
3	Common Transport	ILEC A	Bill and Keep		ILEC B	Bill and Keep
4	End Office Switching and Loop A	ILEC A	Bill and Keep		ILEC B ILEC A	ILEC A Bill and Keep
	B	ILEC A ILEC B	ILEC B Bill and Keep		ILEC B	Bill and Keep

CLEC - CLEC Traffic w/ ILEC Transit
(Non-Hierarchical to Non-Hierarchical)

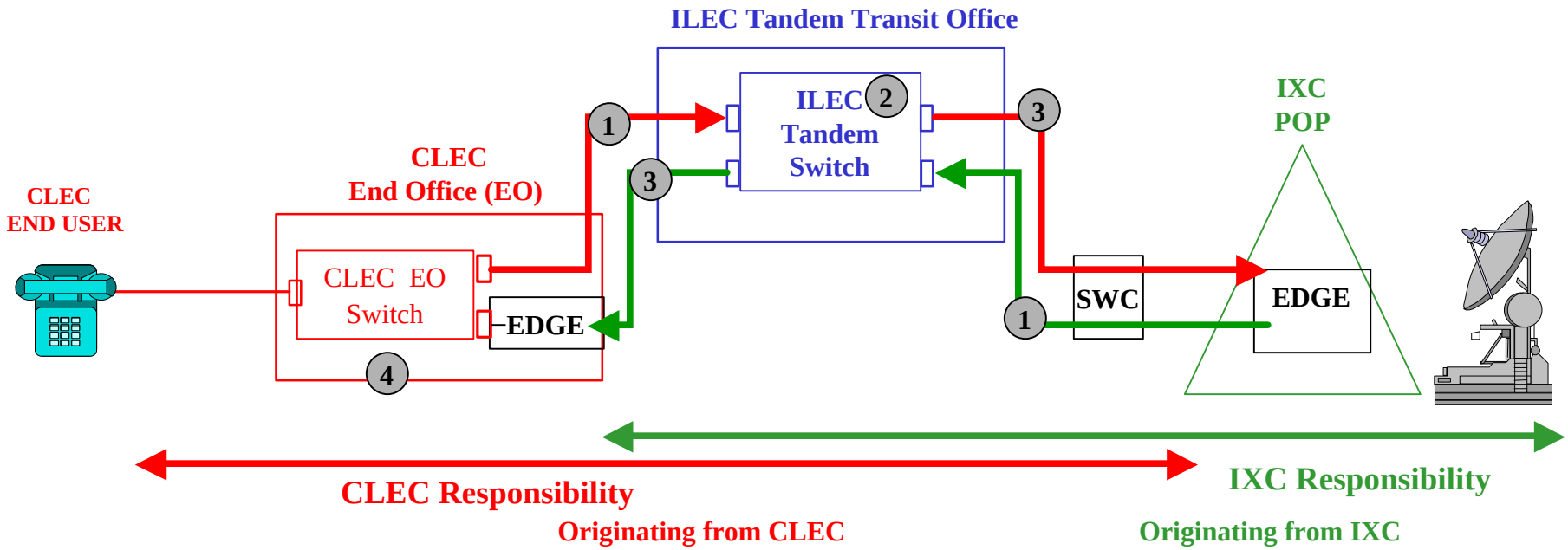


		Originating from CLEC A			Originating from CLEC B	
	NETWORK FUNCTION	**PAID BY**	**PAID TO**		**PAID BY**	**PAID TO**
1	Originating Transiting Transport (Note 1)	CLEC A	Transit Provider		CLEC B	Transit Provider
2	Tandem Switching	CLEC A	Transit Provider		CLEC B	Transit Provider
3	Terminating Transiting Transport (Note 2)	CLEC A	Transit Provider		CLEC B	Transit Provider
4	End Office Switching and Loop A	CLEC A	Bill and Keep		CLEC B (Step 4-6) CLEC A (Step 7)	CLEC A Bill and Keep
	B	CLEC A (Step 4-6) CLEC B (Step 7)	CLEC B Bill and Keep		CLEC B	Bill and Keep

Note 1: Originating Transiting Transport may be self-provisioned by the Non-hierarchical Network, provisioned by a third party, or leased by the Non-hierarchical Network from the Hierarchical Network at the applicable interstate rate.

Note 2: Tandem Transit provider may elect to use the facilities of the receiving carrier and credit/reimburse the receiving carrier.

CLEC - IXC Traffic w/ ILEC Transit
(Non-Hierarchical to Non-Hierarchical)

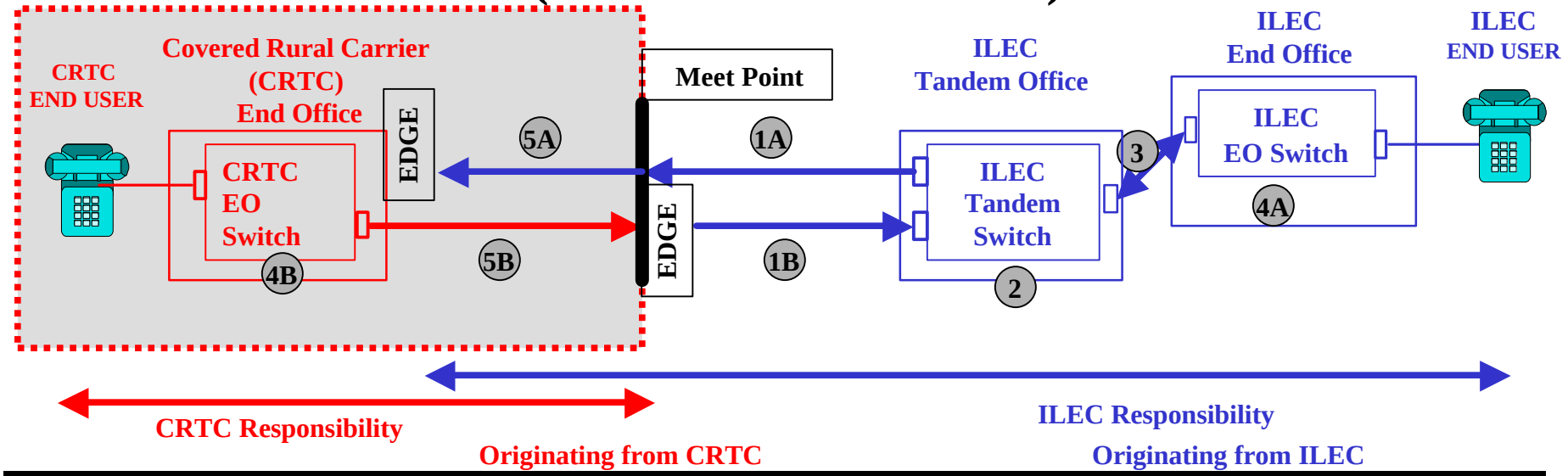


	NETWORK FUNCTION	PAID BY	PAID TO		PAID BY	PAID TO
1	Originating Transiting Transport (Note 1)	CLEC	Transit Provider		IXC	Transit Provider
2	Tandem Switching	CLEC	Transit Provider		IXC	Transit Provider
3	Terminating Transiting Transport (Note 2)	CLEC	Transit Provider		IXC	Transit Provider
4	End Office Switching and Loop	CLEC	Bill and Keep		IXC (Steps 4-6) CLEC (Step 7)	CLEC Bill and Keep

Note 1: Originating Transiting Transport may be self-provisioned by the Non-hierarchical Network, provisioned by a third party, or leased by the Non-hierarchical Network from the Hierarchical Network at the applicable interstate rate.

Note 2: Tandem transit provider may elect to use the facilities of the receiving carrier and credit/reimburse the receiving carrier.

CRTC - ILEC Traffic
(CRTC to Hierarchical)

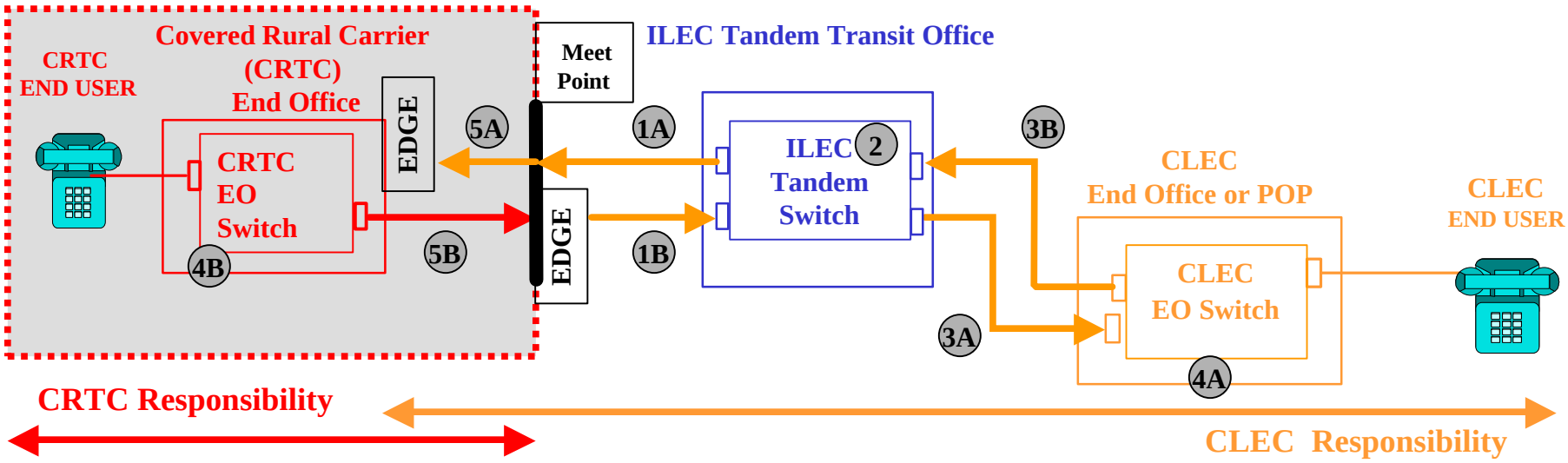


	NETWORK FUNCTION	PAID BY	PAID TO	PAID BY	PAID TO
1	Network Transport				
	A	N/A	N/A	ILEC	Bill and Keep
	B	ILEC	Bill and Keep	N/A	N/A
2	Tandem Switching	ILEC	Bill and Keep	ILEC	Bill and Keep
3	Common Transport	ILEC	Bill and Keep	ILEC	Bill and Keep
4	End Office Switching and Loop				
	A	CRTC (Steps 4-6) ILEC (Step 7)	ILEC Bill and Keep	ILEC	Bill and Keep
	B	CRTC	Bill and Keep	ILEC (Steps 4-6) CRTC (Step 7)	CRTC Bill and Keep
5	CRTC Transport				
	A	N/A	N/A	ILEC	CRTC (note 2) (note 3)
	B	CRTC	Bill and Keep	N/A	N/A

Note 2: In the alternative to purchasing common terminating transport to this Edge from the CRTC, the ILEC also may purchase dedicated terminating transport from the CRTC at prescribed rates, e.g., DS-1's or DS-3's, purchase third-party transport, or deliver traffic using its own facilties.

Note 3: The Plan calls for the CRTC to bill a terminating transport rate to the originating network. The transit provider will provide the CRTC with billing records to allow the CRTC to bill the originating network. The terms and conditions under which these records will be provided are the subject of continuing discussion.

CRTC - CLEC Traffic w/ ILEC Transit (CRTC to Non-Hierarchical)



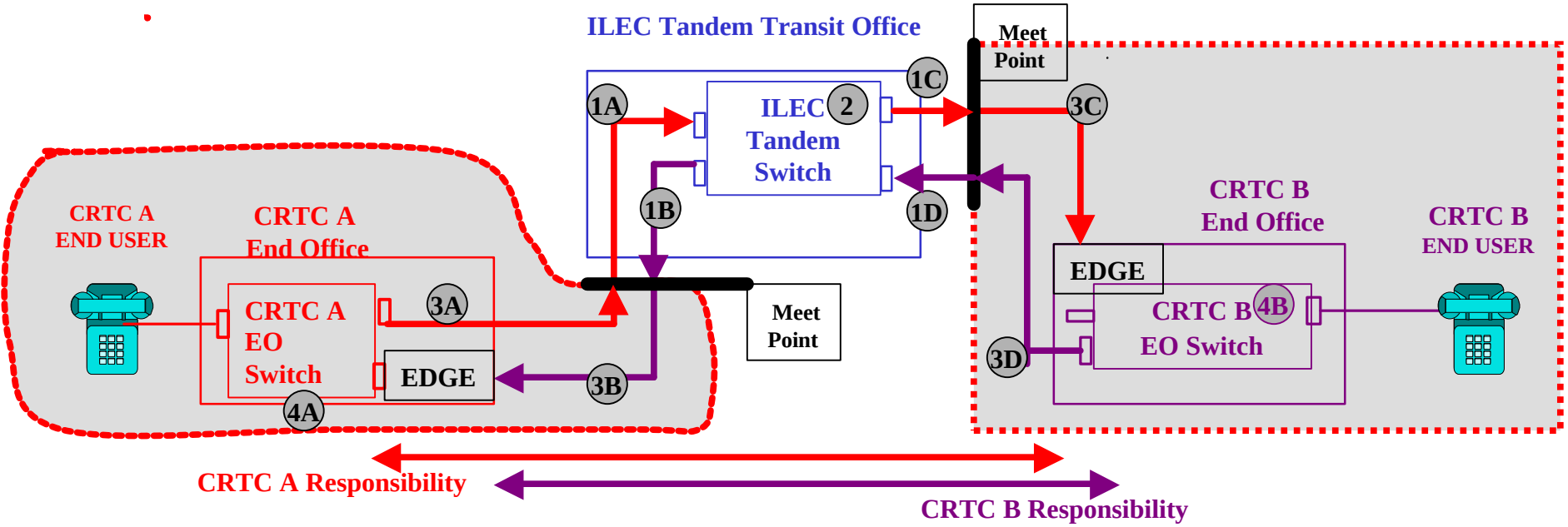
		Originating from CRTC			Originating from CLEC	
	NETWORK FUNCTION	PAID BY	PAID TO		PAID BY	PAID TO
1	Network Transport					
	A	N/A	N/A		CLEC	Transit Provider
	B	CLEC	Transit Provider		N/A	N/A
2	Tandem Switching	CLEC	Transit Provider		CLEC	Transit Provider
3	Common Transport					
	A	CLEC	Transit Provider		N/A	N/A
	B	N/A	N/A		CLEC	Transit Provider (Note 1)
4	End Office Switching and Loop					
	A	CRTC (Steps 4-6) CLEC (Step 7)	CLEC Bill and Keep		CLEC	Bill and Keep
	B	CRTC	Bill and Keep		CLEC (Steps 4-6) CRTC (Step 7)	CRTC Bill and Keep
5	CRTC Transport					
	A	N/A	N/A		CLEC	CRTC (Note 2)(Note 3)
	B	CRTC	Bill and Keep		N/A	N/A

Note 1: Originating Transiting Transport may be self-provisioned by the Non-Hierarchical Network, provisioned by a third party or leased by the Non-Hierarchical Network from the Hierarchical Network at the applicable interstate rate.

Note 2: In the alternative to purchasing common terminating transport to this Edge from the CRTC, the CLEC also may purchase dedicated terminating transport from the CRTC at prescribed rates, e.g., DS-1's or DS-3's, purchase third-party transport, or deliver traffic using its own facilities.

Note 3: The Plan calls for the CRTC to bill a terminating transport rate to the originating network. The transit provider will provide the CRTC with billing records to allow the CRTC to bill the originating network. The terms and conditions under which the billing records will be provided are the subject of ongoing discussions.

CRTC - CRTC w/ ILEC Transit



		Originating from CRTC A			Originating from CRTC B	
	NETWORK FUNCTION	PAID BY	PAID TO		PAID BY	PAID TO
1	Transiting Transport					
	A	CRTC A	Transit Provider (Note 1)		N/A	N/A
	B	N/A	N/A		CRTC B	Transit Provider
	C	CRTC A	Transit Provider		N/A	N/A
	D	N/A	N/A		CRTC B	Transit Provider (Note 1)
2	Tandem Switching	CRTC A	Transit Provider		CRTC B	Transit Provider
3	CRTC Transport					
	A	CRTC A	Bill and Keep		N/A	N/A
	B	N/A	N/A		CRTC B	CRTC A (Note 2) (Note 3)
	C	CRTC A	CRTC B (Note 2) (Note 3)		N/A	N/A
	D	N/A	N/A		CRTC B	Bill and Keep
4	End Office Switching and Loop					
	A	CRTC A	Bill and Keep		CRTC B (Steps 4-6) CRTC A (Step 7)	CRTC A Bill and Keep
	B	CRTC A (Steps 4-6) CRTC B (Step 7)	CRTC B Bill and Keep		CRTC B	Bill and Keep

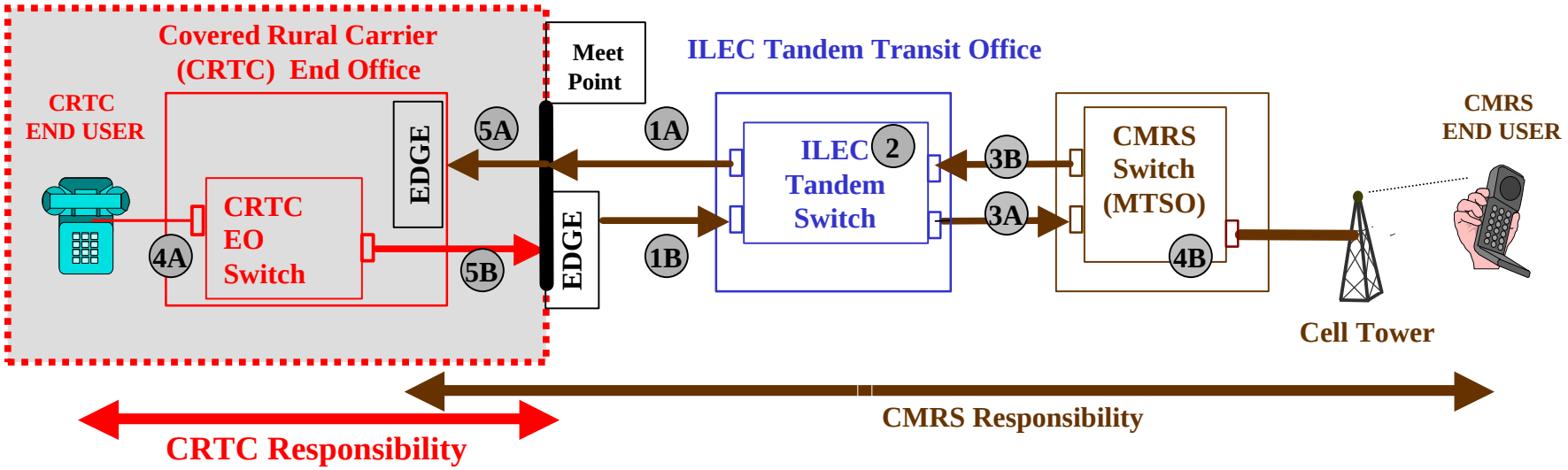
Note 1: Originating Transiting Transport may be self-provisioned by the Non-Hierarchical Network, provisioned by a third party or leased by the Non-Hierarchical Network from the Hierarchical Network at the applicable interstate rate.

Note 2: In the alternative to purchasing terminating common transport to this Edge from the recipient CRTC, the oriinating CRTC may purchase terminating dedicated transport from the terminating CRTC at prescribed rates, e.g., DS-1's or DS-3's, purchase third-party transport, or deliver traffic using its own facilties.

Note 3: The Plan calls for the CRTC to bill a terminating transport rate to the originating network. The transit provider will provide the CRTC with billing records to allow the CRTC to bill the originating network. The terms and conditions under which these records will be provided are the subject of continuing discussions.

CMRS Carrier - CRTC w/ ILEC Transit

(Non-Hierarchical to CRTC)



		Originating from CRTC			Originating from CMRS	
	NETWORK FUNCTION	PAID BY	PAID TO		PAID BY	PAID TO
1	Network Transport					
	A	N/A	N/A		CMRS	Transit Provider
	B	CMRS	Transit Provider		N/A	N/A
2	Tandem Switching	CMRS	Transit Provider		CMRS	Transit Provider
3	Common Transport					
	A	CMRS	Transit Provider		N/A	N/A
	B	N/A	N/A		CMRS	Transit Provider (Note 1)
4	End Office Switching and Loop					
	A	CRTC	Bill and Keep		CMRS (Steps 4-6) CRTC (Step 7)	CRTC Bill and Keep
	B	CRTC (Steps 4-6) CMRS (Step 7)	CMRS Bill and Keep		CRTC B	Bill and Keep
5	CRTC Transport					
	A	N/A	N/A		CMRS	CRTC (Note 2) (Note 3)
	B	CRTC	Bill and Keep		N/A	N/A

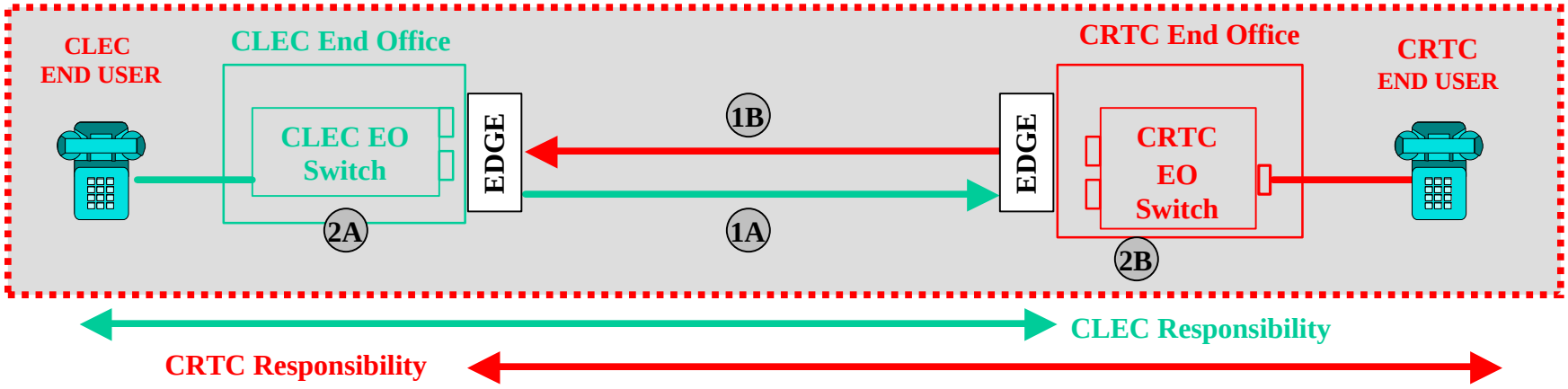
Note 1: Originating Transiting Transport may be self-provisioned by the Non-Hierarchical Network, provisioned by a third party or leased by the Non-Hierarchical Network from the Hierarchical Network at the applicable interstate rate.

Note 2: In the alternative to purchasing common terminating transport to this Edge from the CRTC, the CMRS Provider also may purchase dedicated terminating transport from the CRTC at prescribed rates, e.g., DS-1's or DS-3's, purchase third-party transport, or deliver traffic using its own facilities.

Note 3: The Plan calls for the CRTC to bill a terminating transport rate to the originating network. The transit provider will provide the CRTC with billing records to allow the CRTC to bill the originating network. The terms and conditions under which the transit provider will provide the CRTC with such records are to be determined.

CLEC to CRTC

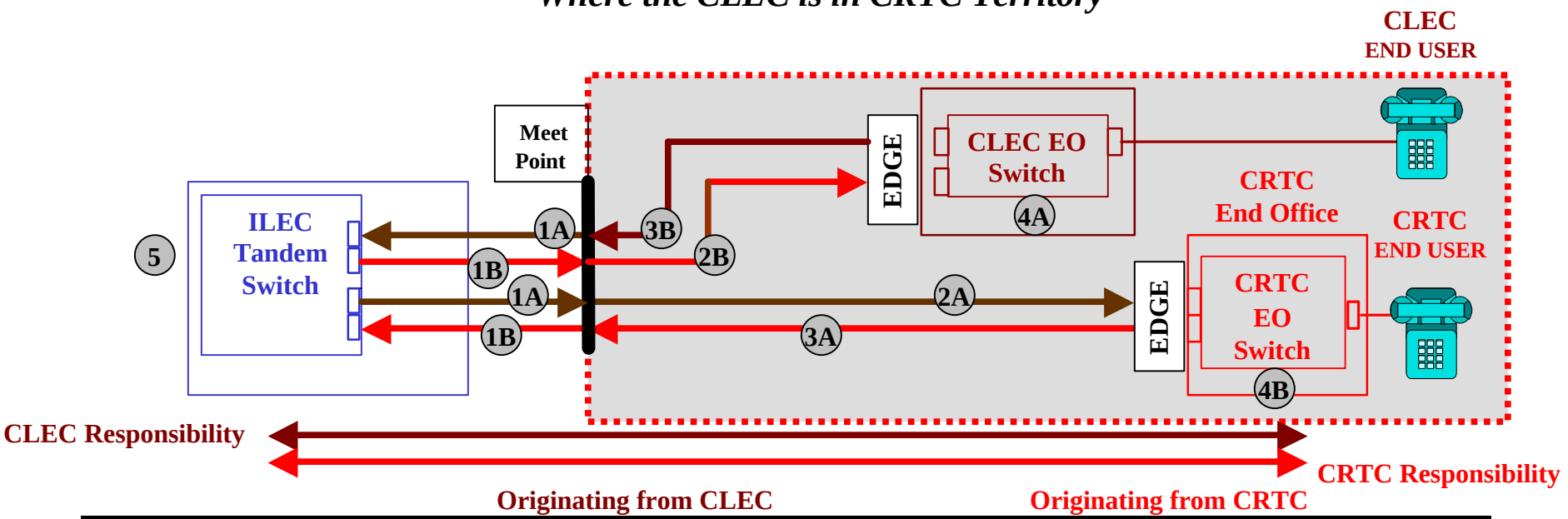
Where the CLEC is in CRTC Territory



		Originating from CLEC			Originating from CRTC	
	NETWORK FUNCTION	**PAID BY**	**PAID TO**		**PAID BY**	**PAID TO**
1	Interconnection Transport					
	A	CLEC	Bill and Keep		N/A	N/A
	B	N/A	N/A		CRTC	Bill and Keep
2	End Office Switching and Loop					
	A	CLEC	Bill and Keep		CRTC (Steps 4-6) CLEC (Step 7)	CLEC Bill and Keep
	B	CLEC (Steps 4-6) CRTC (Step 7)	CRTC Bill and Keep		CRTC	Bill and Keep

CLEC - CRTC w/ ILEC Transit

Where the CLEC is in CRTC Territory



Originating from CLEC | **Originating from CRTC**

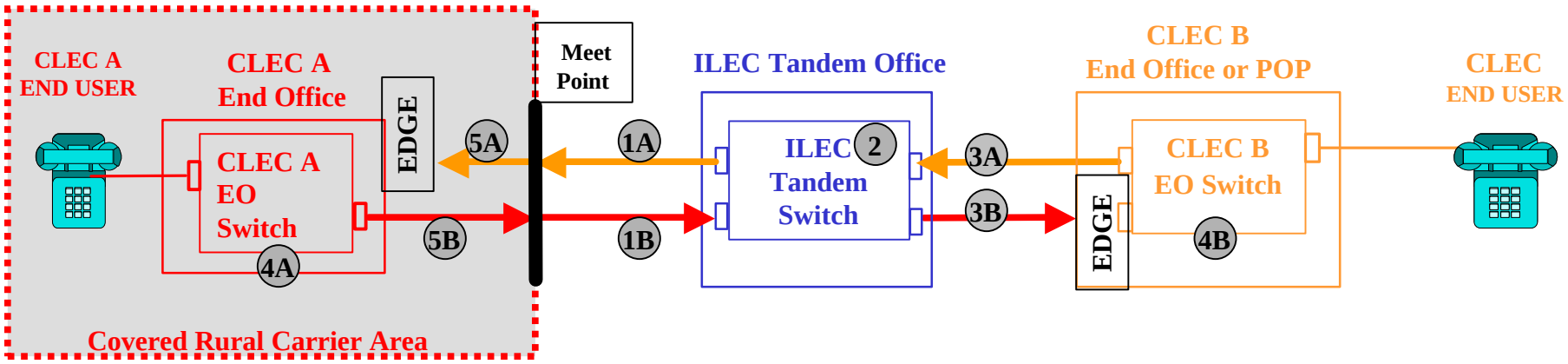
	NETWORK FUNCTION	PAID BY	PAID TO	PAID BY	PAID TO
1	Transiting Transport				
	A	CLEC	Transit Provider	N/A	N/A
	B	N/A	N/A	CRTC	Transit Provider
2	CRTC Transport				
	A	CLEC	CRTC (Note 2) (Note 3)	N/A	N/A
	B	N/A	N/A	CRTC	CLEC (Note 1)
3	Network Transport				
	A	N/A	N/A	CRTC	Bill and Keep
	B	CLEC	Bil and Keep (Note 1)	N/A	N/A
4	End Office Switching and Loop				
	A	CLEC	Bill and Keep	CRTC (Steps 4-6) CLEC (Step 7)	CLEC Bill and Keep
	B	CLEC (Steps 4-6) CRTC (Step 7)	CRTC Bill and Keep	CRTC	Bill and Keep
5	Tandem Switching	CLEC	Transit Provider	CRTC	Transit Provider

Note 1: Originating Transiting Transport may be self-provisioned by the Non-Hierarchical Network, provisioned by a third party or leased by the Non-Hierarchical Network from the Hierarchical Network at the applicable interstate rate.

Note 2: In the alternative to purchasing common terminating transport to this Edge from the CRTC, the CLEC also may purchase dedicated terminating transport from the CRTC at prescribed rates, e.g., DS-1's or DS-3's, purchase third-party transport, or deliver traffic using its own facilities.

Note 3: The Plan calls for the CRTC to bill a terminating transport rate to the originating network. The transit provider will provide the CRTC with billing records to allow the CRTC to bill the originating network. The terms and conditions under which the transit provider will provide the CRTC with such records are to be determined.

CLEC in CRTC area - CLEC out of CRTC area w/ ILEC Transit



	NETWORK FUNCTION	PAID BY	PAID TO	PAID BY	PAID TO
		Originating from CLEC A		Originating from CLEC B	
1	Transiting Transport				
	A	N/A	N/A	N/A	N/A
	B	CLEC A	Transit Provider	N/A	N/A
2	Tandem Switching	CLEC A	Transit Provider	CLEC B	Transit Provider
3	Transiting Transport				
	A	N/A	N/A	CLEC B	Transit Provider (note 1)
	B	CLEC A	Transit Provider	N/A	N/A
4	End Office Switching and Loop				
	A	CLEC A	Bill and Keep	CLEC B (Steps 4-6) CLEC A (Step 7)	CLEC A Bill and Keep
	B	CLEC A (Steps 4-6) CLEC B (Step 7)	CLEC B Bill and Keep	CLEC B	Bill and Keep
5	CLEC Transport				
	A	N/A	N/A	CLEC B	CLEC A (Note 2) (Note 3) (Note 4)
	B	CLEC A	Bill and Keep	N/A	N/A

Note 1: Originating Transiting Transport may be self-provisioned by the Non-Hierarchical Network, provisioned by a third party or leased by the Non-Hierarchical Network from the Hierarchical Network at the applicable interstate rate.

Note 2: In the alternative to purchasing terminating common transport to this Edge from the recipient CLEC, the originating CLEC may purchase terminating dedicated transport from the terminating CLEC at prescribed rates, e.g., DS-1's or DS-3's, purchase third-party transport, or deliver traffic using its own facilties.

Note 3: The Plan calls for the originating CLEC to deliver traffic it originates to the terminating CLEC's Edge. If the originating CLEC uses a tandem transit provider and the terminating CLEC's terminating transport to do so, then the tandem transit provider will provide the terminating CLEC with billing records to allow the terminating CLEC to bill the originating network. The terms and conditions under which these records will be provided are the subject of continuing discussion.

Note 4: The rate for terminating transport is capped at the CRTC transport rate for the same function.